



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2010

Ms. Jo Spurger
Administrative Assistant
Somervell County Sheriff's Department
750 East Gibbs Boulevard
Glen Rose, Texas 76043

OR2010-19012

Dear Ms. Spurger:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 403943.

The Somervell County Sheriff's Department (the "sheriff") received a request for all information pertaining to a named individual from November 2009 through August 2010. You state you have released some information to the requestor. You claim the remaining requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this

¹The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

test must be satisfied. *Id.* at 681-82. A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information relating to routine traffic violations is not private and may not be withheld under section 552.101 on that basis. *Cf. Gov't Code* § 411.082(2)(B) (criminal history record information does not include driving record information).

The present request requires the sheriff to compile unspecified law enforcement records concerning the individual named in the request. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 in conjunction with common-law privacy. We note you have submitted records that do not list the named individual as a suspect, arrestee, or criminal defendant and information that relates to a routine traffic violation. Because this information is not part of a compilation of an individual's criminal history, the sheriff may not withhold it under section 552.101 on that basis. However, we will address your argument under section 552.130 for portions of this information.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Gov't Code* § 552.130(a)(1), (2). We understand that you have redacted certain information pursuant to Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the vehicle identification numbers you have redacted are not subject to Open Records Decision No. 684 and may not be redacted without requesting an attorney general decision. We also note that section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to her own Texas driver's license number under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987). Upon review, we conclude the sheriff must withhold the marked vehicle identification numbers, and the additional Texas motor vehicle record information we have marked, under section 552.130 of the Government Code.

In summary, to the extent the sheriff maintains unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction

with common-law privacy. The sheriff must withhold the marked Texas motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released to the requestor.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tf

Ref: ID# 403943

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not address your argument under section 552.108 of the Government Code.