



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2011

Ms. Courtney Alvarez
City Attorney
City of Kingsville
P.O. Box 1458
Kingsville, Texas 78364

OR2011-05358

Dear Ms. Alvarez:

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# 414769 (Kingsville ID# 2010-032).

The City of Kingsville (the "city") received a request for all information regarding a named individual during a specified time period, including information involving the requestor and two specified addresses. You state you have released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). This office has also found a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. In addition, 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) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in

courthouse files and local police stations and compiled summary of criminal history information).

You state the request seeks a compilation of a named individual's criminal history. After reviewing the request and the submitted information, we believe the requestor is seeking, in part, specific reports involving herself and the named individual that took place at the specified addresses. Accordingly, this portion of the request does not implicate privacy. We agree the remaining portions of the present request require the city to compile unspecified police records concerning the named individual. To the extent the city maintains reports depicting the named individual as a suspect, arrestee, or criminal defendant, but do not involve the requestor and the specified addresses, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We next address your argument against disclosure of the reports involving the requestor at the specified addresses.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that "did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or a deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state case numbers 08-003786, 09-004535, and 09-002511 pertain to criminal investigations that have not resulted in a conviction or deferred adjudication. We note section 552.108(a)(2) is applicable only if the information at issue is related to a *concluded* criminal case "that did not result in conviction or deferred adjudication." *Id.* § 552.108(a)(2). Thus, having considered your representations, we find you have failed to sufficiently demonstrate the applicability of section 552.108(a)(2) to case numbers 08-003786, 09-004535, and 09-002511. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the city may not withhold case numbers 08-003786, 09-004535, and 09-002511 under section 552.108(a)(2) of the Government Code. As you have not claimed any other exceptions to disclosure for this information, it must be released.

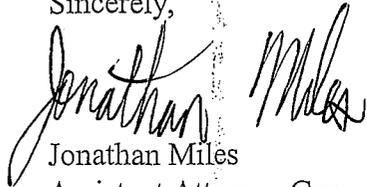
In summary, to the extent the city maintains reports not involving the requestor and the specified addresses, depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. Case numbers 08-003786, 09-004535, and 09-002511 must be released.

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,

A handwritten signature in black ink that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 414769

Enc. Submitted documents

c: Requestor
(w/o enclosures)