



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 15, 2011

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, 1<sup>st</sup> floor  
Conroe, Texas 77301

OR2011-10127

Dear Mr. Walker:

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# 424003 (ORR# 2011-1976).

The Montgomery County Sheriff's Office (the "sheriff") received a request for any calls for service reports for a specified address from February 24, 2007, to the present; and any criminal records for a named individual. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 exception 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 test must be established. *Id.* at 681-82. This office has found that 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). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, records relating to routine traffic violations are not considered criminal history information. *Cf.* Gov't Code § 411.082(2)(B) (criminal history record information does not include driving record information). The submitted calls for service reports do not list the named individual as a suspect, arrestee, or criminal defendant. Thus, because these records are not a compilation of this individual's criminal history, the sheriff may not withhold the calls for service reports in their entirety under section 552.101 of the Government Code on this basis.

You also claim the calls for service reports must be withheld in their entirety under common-law privacy because you believe the requestor is aware of certain private details revealed in these documents. Generally, only highly intimate or embarrassing information that is of no legitimate public interest may be withheld under common-law privacy. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual's privacy. After reviewing the records, we agree they contain intimate or embarrassing information that is of no legitimate public interest. We find, however, that you have failed to demonstrate this is a situation where the calls for service reports must be withheld in their entirety to protect the privacy interests of the individuals involved. Accordingly, we have marked information in the calls for service reports that is protected under common-law privacy and must be withheld under section 552.101 of the Government Code. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps).

The remaining information includes Texas driver's license numbers, class designations, and expiration dates, and a Texas license plate number that are confidential under section 552.130 of the Government Code.<sup>1</sup> This section provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1), (2)).<sup>2</sup> Therefore, the sheriff must withhold the driver's license information and license plate number we marked under section 552.130 of the Government Code. The remaining information must be released.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>This office issued 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 license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the sheriff must withhold the portions of the calls for service reports we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must also withhold the driver's license information and license plate number we marked under section 552.130 of the Government Code. The remaining information 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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

Ref: ID# 424003

Enc. Submitted documents

c: Requestor  
(w/o enclosures)