



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2011

Ms. Michelle L. Villarreal
Assistant City Attorney
Legal Services Department
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2011-15836

Dear Ms. Villarreal:

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# 434773 (Waco Reference No. LGL 11-1165).

The Waco Police Department (the "department") received a request for information pertaining to a specific case and the 911 calls relating to this incident. You claim that the submitted 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (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). This office has found 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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. You argue the submitted information is confidential pursuant to the holding in *Reporters Committee*. However, the present request seeks information related to a specified incident. The requestor does not seek a compilation of information for any individual. Thus, we find the present request is not a request for an unspecified compilation of any individual's criminal history, and therefore the department may not withhold the submitted information under section 552.101 in conjunction with common-law privacy on this basis.

Section 552.101 also encompasses information that other statutes make confidential such as section 261.201(a) of the Family Code, which provides in pertinent part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert the submitted incident report is confidential under section 261.201(a). We note the report concerns allegations of assault of an adult victim and criminal trespass. You have not explained how this information was used in an investigation conducted under chapter 261. Consequently, we find you have failed to adequately demonstrate how the submitted incident report was used or developed in an investigation of child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201). We therefore conclude section 261.201 is not applicable to this information.

We note that the submitted information contains a driver's license number. Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country.¹ Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an

¹ The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

amendment to Gov't Code § 552.130(a)). Accordingly, the department must withhold the information we have marked under section 552.130.

In summary, the department must withhold the information we have marked pursuant to 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, 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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/sdk

Ref: ID# 434773

Enc. Submitted documents

c: Requestor
(w/o enclosures)