



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2013

Mr. Jody Leake
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2013-13214

Dear Mr. Leake:

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# 494994 (CCPD File No. SHin1).

The Corpus Christi Police Department (the "department") received a request for records involving a named individual during a specified period of time, including those involving the requestor, and a specified case. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

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 (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 demonstrated. *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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You assert the present request requires the department to compile unspecified law enforcement records concerning the named individual, thus implicating this individual's right to privacy. However, upon review of the request and the submitted information, we find the requestor is, in part, seeking a specified report and specific domestic violence reports involving herself and the named individual. Thus, these portions of the request do not implicate the named individual's right to privacy. Thus, the requested report and the domestic violence reports involving the requestor and the named individual may not be withheld under section 552.101 on the basis of the named individual's privacy interests as a compilation of his criminal history. However, to the extent the department maintains other law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). We note some of the remaining information, which we have marked, relates to an investigation of alleged or suspected child abuse conducted by the department. *See id.* §§ 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Accordingly, we find this information is subject to chapter 261 of the Family Code. You do not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the information we have marked is confidential pursuant to section 261.201 of the Family Code, and the department must withhold it under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

In summary, to the extent the department maintains law enforcement records, other than the specified report and the domestic violence reports involving the requestor and the named

individual, depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The remaining information must be released.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/dls

¹We note the information being released includes information that may be confidential with respect to the general public. The driver's license number, license plate number, and VIN number being released are generally confidential pursuant to section 552.130 of the Government Code. However, because section 552.130 protects personal privacy, the requestor has a right to her own motor vehicle record information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a) without the necessity of requesting a decision under the Act. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). Thus, if the department receives another request for this same information from a different requestor, subsection 552.130(c) of the Government Code authorize the department to withhold the driver's license number, license plate number, and VIN number without the necessity of requesting an attorney general decision.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)