



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 25, 2013

Ms. Janet L. Kellogg
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2013-20512

Dear Ms. Kellogg:

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# 506665 (CCPD# JMad2).

The Corpus Christi Police Department (the "department") received a request for records related to a named individual. You claim 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). To demonstrate the applicability of common-law privacy, both prongs of this

test must be established. *Id.* at 681–82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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 courthouses 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. We agree this request requires the department to compile unspecified criminal history records concerning the named individual, implicating his right to privacy. Therefore, to the extent the department maintains unspecified 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 in conjunction with common-law privacy. However, you have submitted records that do not list the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interest of the named individual and may not be withheld as a compilation of the individual's criminal history under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses section 550.065(b) of the Transportation Code, which states that, except as provided by subsection (c) or (e), crash reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of crash reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the department with two of the three pieces of information required by the statute. Accordingly, the department must withhold the crash reports we marked under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 of the Government Code also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10–12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for

criminal justice purposes. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090–.127. The information we marked constitutes confidential CHRI. Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country.¹ Gov't Code § 552.130(a)(1), (2). Accordingly, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.²

In summary, to the extent the department maintains unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold that information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the crash reports and the CHRI we marked under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code and section 411.083 of the Government Code, respectively. The department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The department must release the remaining information.³

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

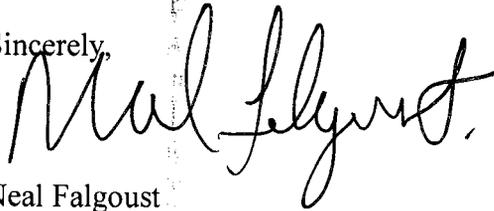
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Section 552.130(c) of the Government Code permits a governmental body to redact motor vehicle record information without the necessity of seeking a ruling from this office. Gov't Code § 552.130(c). However, the governmental body must provide notice to the requestor. *See id.* § 552.130(c)–(e).

³Section 552.147 of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a large initial "N".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/som

Ref: ID# 506665

Enc. Submitted documents

c: Requestor
(w/o enclosures)