



September 20, 1999

Mr. John Haywood
John Haywood, P.C.
300 Garcia Street, Suite A-6
Port Isabel, Texas 78578

OR99-2611

Dear Mr Haywood:

On behalf of the City of Port Isabel (the "city"), you ask us to clarify and supplement Open Records Letter No. 99-1825 (1999). Your request was assigned ID# 127916.

The city received a request for copies of certain traffic citations. You indicated that the traffic tickets are delivered to and maintained by the Port Isabel Municipal Court. We therefore concluded that the traffic tickets are records of the judiciary and are not subject to disclosure under the Public Information Act. *See* Gov't Code § 552.003(b); ORL 99-1825. You now inform us that copies of the traffic citations are also maintained by the Port Isabel Police Department (the "police department"). You ask several questions regarding the disclosure of the copies of the citations in the possession of the police department. You have submitted a representative traffic citation to this office for review.¹

First, you ask whether section 552.130 of the Government Code excepts from disclosure any of the information contained in the traffic citation, and if so, whether the police department can "waive" section 552.130 and provide "a complete copy of the citation." Section 552.130 provides in relevant part as follows:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

If the citation has been filed with the court, the information in the citation is considered public and must be released. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992); Open Records Letter No. 99-0766 at 3 (1999). If the citation has not been filed with the court, then some of the information in the citation is excepted from disclosure under section 552.130. ORL 99-0766 at 3. We have marked this information accordingly. If the citation has not been filed with the court, the police department must withhold the marked information from public disclosure. The police department cannot waive section 552.130 because it protects individual privacy interests. Open Records Letter No. 99-1322 (1999) (section 552.130 is intended to protect individual privacy interests). *But see* Gov't Code § 552.023 (person has a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by a law intended to protect that person's privacy interests).

Next, you ask whether "the criminal accusation with which the driver is accused" is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 excepts from disclosure certain law enforcement records. Section 552.108 does not, however, except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Basic information includes the offense with which an individual is charged. Therefore, the police department cannot rely on section 552.108 to withhold from disclosure the offense for which a driver is cited.

Finally, you ask whether privacy provisions except from disclosure the place of employment, work and home telephone numbers of the accused. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses the common-law right to privacy. For information to be protected from public disclosure by the common-law right to privacy, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. We have consistently held that places of employment and work and home telephone numbers are not excepted from disclosure under section 552.101 in conjunction with the common-law right to privacy. *See* Open Records Decision Nos. 478 (1987), 455 (1987). Therefore, the police department may not withhold these types of information from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination

regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ljp

Ref.: ID# 127916

Encl. Marked documents

cc: Mr. Larry Lopez
Rio Grand Defensive Driving School
1213 East Harrison
Harlingen, Texas 78550
(w/o enclosures)