



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2009

Ms. Courtney Alvarez  
City Attorney  
City of Kingsville Legal Department  
P.O. Box 1458  
Kingsville, Texas 78364

OR2009-09468

Dear Ms. Alvarez:

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# 348492.

The Kingsville Police Department (the "department") received a request for "all documents" concerning a named individual. You state that the department is withholding one of the responsive records pursuant to a previous ruling issued by this office. You claim that the submitted information is excepted from disclosure under section 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us that one of the responsive records was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2008-08423 (2008). As we have no indication that there has been a change in the law, facts, or circumstances on which this prior ruling was based, the department may continue to rely on our decision in Open Records Letter No. 2008-08423 with respect to the record that was subject to that ruling. See Gov't Code § 552.301(f); Open Records Decision No. 673 (2001) (setting forth the criteria for a "previous determination").

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 section encompasses the common-law right to 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. *See 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 met. *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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, that records relating to routine traffic violations are not considered criminal history record information. *Cf. Gov't Code § 442.082(2)(B)* (criminal history record information does not include driving record information).

The instant request asks for "all documents" regarding a named individual. This request requires the department to compile unspecified law enforcement records concerning the named individual. Thus, we find that this request implicates this individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note that the department has submitted law enforcement records related to routine traffic violations which do not implicate the named individual's privacy under section 552.101 of the Government Code. Thus, we will address your argument under section 552.130 for this information.

You seek to withhold Texas motor vehicle record information in the information at issue under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates 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. *See Gov't Code § 552.130(a)(1), (2)*. Thus, the department must withhold the information we have marked that relates to a Texas motor vehicle license, title, or registration pursuant to section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with

common-law privacy. The department must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>1</sup>

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 at (512) 475-2497.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/dls

Ref: ID# 348492

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure except to note that section 552.147(b) 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.