



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 20, 2009

Mr. Samuel D. Hawk  
Assistant City Attorney  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2009-10008

Dear Mr. Hawk:

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# 349447 (Dallas ORR# 2009-3556).

The Dallas Police Department (the "department") received a request for information pertaining to a named individual as well as a specified incident report. You state you have released some of the requested information. 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *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.

The present request, in part, seeks all information involving a named individual. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the department maintains law enforcement records, other than the specifically requested incident report, 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.

However, we note that the requestor also asks for a specified incident report. Thus, this information does not constitute a compilation of the individual's criminal history and may not be withheld under section 552.101 on this basis. We note that a portion of this information is excepted from disclosure under common-law privacy. Common-law privacy also encompasses the specific types of information that are held to be intimate or embarrassing in *Industrial Foundation*. See 540 S.W.2d at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). Upon review, we find that some of the information at issue is highly embarrassing and not of legitimate public interest. Accordingly, we have marked a portion of the information at issue that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(1), (2). Therefore, the department must withhold the Texas motor vehicle and driver's license information we have marked under section 552.130.

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 any 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 552.101 of the Government Code in conjunction with common-law privacy. The

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department must also withhold the Texas motor vehicle information we have marked under section 552.130. The remaining information must be released.<sup>2</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,



Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/rl

Ref: ID#349447

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the remaining information contains a social security number that the department may withhold pursuant to section 552.147(b) of the Government Code. See Gov't Code § 552.147(b) (governmental body may redact social security number without necessity of requesting decision from this office under the Act).