



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 30, 2009

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
Police Legal Advisor  
321 John Sartain  
Corpus Christi, Texas 78401

OR2009-16866

Dear Ms. Aguilar:

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# 362638.

The Corpus Christi Police Department (the "department") received a request for information pertaining to two named individuals and information pertaining to a specified incident involving the named individuals. You state that you have redacted social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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. This section encompasses the doctrine of common-law privacy, which protects information that (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

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<sup>1</sup>We 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 under the Act.

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 satisfied. *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 information. *Cf. Gov't Code* § 411.082(2)(B) (criminal history record information does not include driving record information).

The present request, in part, requires the department to compile unspecified law enforcement records concerning the individuals at issue. We find this request for unspecified law enforcement records implicates the named individuals' right to privacy. Therefore, with the exception of information pertaining to the specified incident, to the extent the department maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note that the department has submitted incident report number 92-019550, which does not depict one of the named individuals as a suspect, arrestee, or a criminal defendant. This report does not constitute a criminal history compilation protected by common-law privacy and may not be withheld on that basis under section 552.101.

Section 552.101 also encompasses criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. 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 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the 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) authorize a criminal justice agency to obtain CHRI, but a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *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.* §§ 411.090-411.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See ORD 565.* Therefore, any CHRI obtained from DPS or any other criminal justice agency in the remaining information must be withheld

under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. We have marked the CHRI the department must withhold under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. However, none of the remaining information you have marked consists of CHRI, and it may not be withheld on such basis.

You also raise section 552.101 in conjunction with section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. You assert that incident report number 92-019550 is subject to this section. We note, however, that section 58.007 is inapplicable because the conduct in the information at issue occurred in 1992. Former section 51.14 of the Family Code is the applicable provision in this instance. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Section 51.14 only applies to records of a "child," which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2).

In this instance, report number 92-019550 involves juvenile delinquent conduct that occurred in 1992. Therefore, report number 92-019550 is confidential under former section 51.14 of the Family Code and must be withheld under section 552.101 of the Government Code. *See id.* § 51.04(a) (Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by child).

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which 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. Gov't Code § 552.130(a)(1), (2). We agree that the department must withhold the Texas motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code.

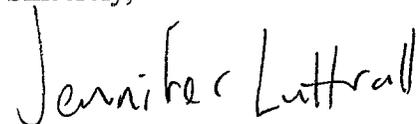
In summary, with the exception of information pertaining to the specified incident, to the extent the department maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the department must withhold any such information under section 552.101 of 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 chapter 411 of the Government Code. The department must withhold report number 92-019550 under section 552.101 of the Government Code in conjunction with former section 51.14 of the Family Code. The

department must withhold the Texas motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code. 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 362638

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the remaining information contains social security numbers. 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 under the Act.