



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 5, 2010

Mr. Lance Vanzant  
Hayes, Berry, White & Vanzant, L.L.P.  
Attorney for Town of Hickory Creek  
P.O. Box 50149  
Denton, Texas 76206

OR2010-06477

Dear Mr. Vanzant:

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# 378214.

The Town of Hickory Creek (the "town"), which you represent, received a request for the following information from January 1, 2005 to the present: (1) specified contracts with the town; (2) any arrest or incident reports pertaining to two named individuals; (3) any arrest or incident reports related to five particular cases; and (4) any public information requests or subpoenas related to the named individuals. You state you have released some of the requested information to the requestor. You claim that the remaining 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. 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 concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has held that 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) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Criminal history record information ("CHRI") does not include driving record information maintained by the Texas Department of Public Safety ("DPS"). *See* Gov't Code § 411.082(2)(B). Moreover, we note that an individual's current involvement in the criminal justice system, including active warrant information, does not constitute CHRI.

The present request, in part, seeks unspecified police records relating to two named individuals. We find this request for unspecified law enforcement records requires the town to compile the named individuals' criminal histories and thereby implicates their rights to privacy. Therefore, to the extent the town maintains any law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the town must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note you have submitted driving record and active warrant information. That information does not implicate the privacy interests of the named individuals and may not be withheld based on common-law privacy. Accordingly, we will address your remaining argument against disclosure of that information.

Section 552.101 also encompasses section 411.083 of the Government Code. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential. *See id.* § 411.083(a); Open Records Decision No. 565 (1990). 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. *See* ORD 565. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 deems confidential CHRI that DPS maintains, except that 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; however, 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-.127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. The term CHRI does not include driving record information maintained by DPS. *Id.* § 411.082(2)(B). Furthermore, we note an individual's current involvement in the criminal justice system, including active warrant information, does not constitute CHRI. Upon review, we find you have failed to establish how any portion of the remaining information constitutes CHRI for purposes of chapter 411. Thus, none of this information may be withheld under section 552.101 of the Government Code on that basis.

We note some of the remaining information is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *Id.* § 552.130. Thus, the town must withhold the Texas driver's license information we have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, to the extent the town maintains any law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the town must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The town must withhold the Texas driver's license information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

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<sup>1</sup>The 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).

<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 378214

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)