



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 10, 2010

Ms. Blanca E. Sanchez  
Administrative Support Supervisor  
Hidalgo County Sheriff's Office  
P.O. Box 1228  
Edinburg, Texas 78540

OR2010-03449

Dear Ms. Sanchez:

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# 372998.

The Hidalgo County Sheriff's Office (the "sheriff") received a request for a specified incident report; alarm system notifications, registrations, and calls for service at a specified location; offense reports for a specified location; pawn shop transactions involving two named individuals; as well as offense reports involving two named individuals and certain categories of offenses. You state the sheriff will provide some of the requested information to the requestor. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

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 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. *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 demonstrated. *Id.* at 681-82. A compilation of an individual's criminal history record information 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, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

Here, because the requestor asks for unspecified law enforcement records of two named individuals, the request implicates each individual's right to privacy. We note, however, that the requestor is an agent for the insurer of the individuals whose privacy interests are implicated by the instant request. As such, the requestor may have a right of access to this information as the insured persons' authorized representative. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, we rule conditionally. To the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, and the requestor does not have a right of access, the sheriff must withhold such information under section 552.101 in conjunction with common-law privacy. To the extent the sheriff maintains such records, and the requestor does have a right of access, the sheriff may not withhold such information under section 552.101 in conjunction with common-law privacy.

We note a portion of the information at issue is confidential under section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, to the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, and the requestor does not have a right of access, the sheriff must withhold such information under section 552.101 in conjunction with common-law privacy. To the extent such records exist and the requestor does have a right of access, the sheriff may not withhold the information under common-law

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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. 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 Texas driver's license numbers under section 552.130, without the necessity of requesting an attorney general decision.

privacy, but the sheriff must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>3</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 Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 372998

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the remaining information contains a social security number. 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.