



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 3, 2010

Ms. Luz E. Sandoval Walker
Assistant City Attorney
El Paso City Prosecutor's Office
810 Overland
El Paso, Texas 79901-1196

OR2010-13425

Dear Ms. Walker:

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# 392536 (2010-06-40-AG).

The El Paso Police Department (the "department") received a request for all records pertaining to a named individual. You state the department released some information to the requestor. You claim the remaining 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. 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. *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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request seeks any records pertaining to a named individual. This request requires the department to compile the named individual's criminal history. 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 depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.¹

However, you have submitted information which does not identify the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual. Although you do not raise exceptions against disclosure of this information, we note it includes the named individual's Texas driver's license and license plate numbers, which are subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, permit, title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1). Thus, the department must withhold the driver's license and license plate numbers we have marked under section 552.130.³

In summary, to the extent the department maintains any information that depicts the named individual as an arrestee, criminal defendant, or suspect, 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 Texas driver's license and license plate numbers we marked under section 552.130 of the Government Code. The remaining information must be released.⁴

¹As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

²The 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).

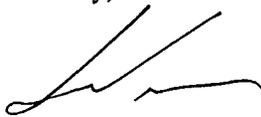
³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

⁴We note the information being released 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. Gov't Code § 552.147(b).

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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 392536

Enc. Submitted documents

c: Requestor
(w/o enclosures)