



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 28, 2010

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

OR2010-19424

Dear Ms. Sandoval-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# 403130 (El Paso No. 2010-10-17-AG).

The El Paso Police Department (the "department") received a request for domestic violence reports where one named individual is the suspect and another named individual is the complainant during a specified time period, including photos. We understand you have redacted a social security number pursuant to section 552.147 of the Government Code and a Texas driver's license number pursuant to Open Records Decision No. 684 (2009).¹ 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 and reviewed the submitted information.

Initially, we note some the information we have marked is not responsive to the present request because it does not involve the named individual as a complainant. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

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 common-law right of privacy, which

¹Section 552.147(b) of the Government Code authorizes a government 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. Additionally, this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of 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.

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 satisfied. *Id.* at 681-82. This office has found 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.

You assert that the present request requires the department to compile the criminal history of one of the named individuals. After reviewing the request and the submitted information, however, we find the requestor is seeking specific domestic violence reports in which a named individual is listed as a complainant and another named individual is listed as the suspect. Accordingly, we find this request does not implicate either individual's common-law right to privacy. Thus, the department may not withhold the responsive information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no additional exceptions, the remaining responsive 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, 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 403130

Enc. Submitted documents

c: Requestor
(w/o enclosures)