



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 18, 2011

Lieutenant William Ryan
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2011-03749

Dear Lt. Ryan

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# 416882.

The Pharr Police Department (the "department") received a request for information involving the requestor. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We note the submitted information relating to case number 10-2589 does not involve the requestor and thus is not responsive to this request for information. Therefore, this decision does not address the public availability of the information relating to case number 10-2589, and the department need not release that 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. This exception encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See 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.

In this instance, the requestor seeks access to unspecified police reports involving himself. Thus, this request requires the department to compile the requestor's criminal history and thereby implicates his privacy interests. The requestor has a special right of access, however, under section 552.023 of the Government Code to any information the department would be required to withhold from the public to protect his privacy. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹ Thus, to the extent the department maintains any information that depicts the requestor as a suspect, arrested person, or criminal defendant, it may not withhold any such information as a compilation of the requestor's criminal history on privacy grounds under section 552.101. We also note you have submitted information relating to case number 2008-00050347, which does not depict the requestor as a suspect, arrested person, or criminal defendant and thus does not implicate his privacy interests. We therefore conclude the department may not withhold any of the requested information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the submitted information falls within the scope of section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state.² *See* Gov't Code § 552.130(a)(2). The department must withhold the Texas motor vehicle information we have marked under section 552.130 of the Government Code.³ The department must release the rest of the requested information.⁴

¹Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

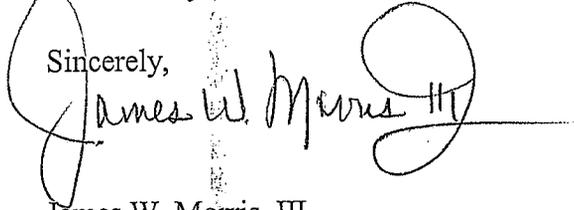
³We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number under section 552.130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

⁴We note the submitted information includes the requestor's Texas driver's license and motor vehicle information, which the department would ordinarily be required to withhold under section 552.130. Because this exception protects personal privacy, the requestor has a right of access to his own driver's license and motor vehicle information under section 552.023. *See* Gov't Code § 552.023; ORD 481 at 4. Should the department receive another request for this same information from a person who would not have a right of access to this requestor's private information, the department should resubmit this information and request another decision. *See* Gov't Code, §§ 552.301(a), .302.

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, looping initial "J" and a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 416882

Enc: Submitted documents

c: Requestor
(w/o enclosures)