



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 16, 2012

Mr. Jose Hernandez  
Records Supervisor  
Edinburg Police Department  
1702 South Closner Boulevard  
Edinburg, Texas 78539

OR2012-07251

Dear Mr. Hernandez:

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# 453759 (Edinburg Reference ID# 33919).

The Edinburg Police Department (the "department") received a request for: (1) information pertaining to a specified incident involving a named individual from a specified time period; (2) information pertaining to a specified case involving a second named individual from another specified time period; and (3) any records concerning a third named individual regarding any type of violence, harassment, or assault toward the first and second named individuals. You claim the responsive information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 exception 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). 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. United States 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). We also find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In item three of the request, the requestor, in part, seeks access to unspecified law enforcement records involving the third named individual. Thus, we agree this part of the request requires the department to compile this individual's criminal history and thereby implicates his privacy interests. Therefore, to the extent the department maintains any records that depict the third named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy as a compilation of this individual's criminal history. We note, however, you have submitted information in which the third named individual is not listed as a suspect, arrestee, or criminal defendant. This information is not part of a criminal history compilation and, thus, does not implicate this individual's privacy interests. Accordingly, we address your remaining arguments for this information.

You raise sections 552.130 and 552.147 of the Government Code for portions of the submitted information. Section 552.130(a)(1) of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by any agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(a)(1). The department must withhold the driver's license information you have marked under section 552.130(a)(1) of the Government Code.<sup>1</sup>

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure. *See id.* § 552.147. The department may withhold the social security number you have marked under section 552.147 of the Government Code.<sup>2</sup>

In summary, to the extent the department maintains any records that depict the third named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with

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<sup>1</sup>We note the Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>2</sup>We note 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. *See* Gov't Code § 552.147(b).

common-law privacy as a compilation of this individual's criminal history. The department must withhold the driver's license information you have marked under section 552.130(a)(1) of the Government Code. The department may withhold the social security number you have marked under section 552.147 of the Government Code. The department must release the remaining information.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/dls

Ref: ID# 453759

Enc. Submitted documents

c: Requestor  
(w/o enclosures)