



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2014

Ms. Cecilia Gamez
Crime Records Office
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2014-14481

Dear Ms. Gamez:

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# 533259 (Ref. No. W015300-052314).

The McAllen Police Department (the "department") received a request for all criminal reports filed by a named individual. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note most of the information you have submitted is not responsive to the instant request for information because it does not consist of criminal reports filed by the named individual. This ruling does not address the public availability of non-responsive

¹We note the department failed to comply with the procedural requirements of section 552.301(e) of the Government Code by failing to meet its 10-business-day and 15-business day deadlines. *See* Gov't Code § 552.301(b), (e). Nonetheless, the applicability of section 552.101 of the Government Code can constitute a compelling reason sufficient to overcome the presumption of openness caused by the failure to comply with section 552.301. *See id.* §§ 552.007, .302. Therefore, we will address the department's assertion under this exception.

information, and the department is not required to release non-responsive information in response to this request.

Next, we note you have only submitted an activity report. We assume, to the extent any other information responsive to the request existed on the date the department received the request, the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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) (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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

However, information that refers to an individual solely as a victim, witness, or involved person is not a compilation of that individual's criminal history. The present request seeks reports filed by a named individual. This information is not part of a criminal history compilation and, thus, does not implicate this individual's right to privacy. As such, the department may not withhold the responsive information under section 552.101 of the Government Code on this basis. As you raise no other exceptions to disclosure, the 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.texasattorneygeneral.gov/open/>

[url_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping initial "M".

Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 533259

Enc. Submitted documents

c: Requestor
(w/o enclosures)