



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2009

Ms. Eileen McPhee
Carls, McDonald & Dalrymple, L.L.P.
901 South MoPac Expressway Suite 500
Austin, Texas 78746

OR2009-14540

Dear Ms. McPhee:

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# 358433 (CMcD # 2132).

The Georgetown Police Department (the "department"), which you represent, received a request for information relating to a named individual. You claim that 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 first note that the requestor specifically seeks access to "arrest reports or any other superseding information filed for the [named] individual[.]" The submitted police records include an arrest report bearing the service number provided by the requestor, as well as a related probable cause affidavit, misdemeanor complaint, and offense report. We find that the arrest report, the affidavit, and the complaint are responsive to this request for information. Accordingly, we do not address the public availability of the offense report, 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. You raise section 552.101 in conjunction with the doctrine of common-law privacy, which protects information if it contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and 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. *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) (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.

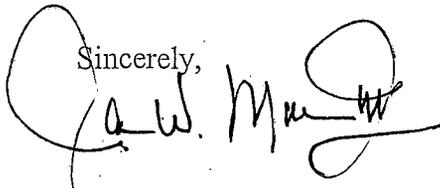
In this instance, the requestor seeks access to records of a specific arrest. Thus, this is not a request for unspecified law enforcement records, the request does not require the department to compile the arrested person's criminal history, and his privacy interests are not implicated. We therefore conclude that the department may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note that the responsive information contains the arrested person's Texas driver's license number. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). The department must withhold the driver's license number we have marked under section 552.130.¹ The rest of 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.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,



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

JWM/cc

¹We note that the arrest report also 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.

Ref: ID# 358433

Enc: Submitted documents

c: Requestor
(w/o enclosures)