



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 26, 2015

Mr. Daniel Ortiz
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2015-05804

Dear Mr. Ortiz:

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# 557573 (Ref. No. 15-1026-5042).

The El Paso Police Department (the "department") received a request for all police reports made within a specific date range against a named individual. The department claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exception the department claims.

Section 552.101 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 of the Government Code 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. *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. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989)

¹Although the department raises section 552.101 of the Government Code in conjunction with constitutional privacy, the department has not submitted arguments explaining how constitutional privacy applies to the submitted information. Therefore, we assume the department has withdrawn its claim under this doctrine. See Gov't Code §§ 552.301, .302.

(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. The present request requires the department to compile unspecified law enforcement records concerning a named individual. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.

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/orl_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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 557573

Enc. Submitted documents

c: Requestor
(w/o enclosures)