



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 8, 2015

Ms. Stephanie H. Harris  
Assistant City Attorney  
City of Paris  
P.O. Box 9037  
Paris, Texas 75461-9037

OR2015-13763

Dear Ms. Harris:

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# 570583.

The Paris Police Department (the "department") received a request for all records involving two named individuals and information related to a specified incident. You state the department will release information related to the specified incident to the requestor. You also state the department will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(a), (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). 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. *See id.* § 552.147(b).

publication of which would be highly objectionable to a reasonable person, and (2) 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 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. 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.

You assert, and we agree, the request, in part, seeks unspecified law enforcement records pertaining to the named individuals. This part of the request requires the department to compile the named individuals' criminal histories and implicates the named individuals' rights to privacy. Therefore, to the extent the department maintains unspecified law enforcement records involving only the first named individual and listing that individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we find the requestor may be acting as an authorized representative of the second named individual, in which case the requestor would have a special right of access to this individual's private information pursuant to section 552.023 of the Government Code. *See Gov't Code § 552.023(a)* (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); *Open Records Decision No. 481 at 4* (1987) (privacy theories not implicated when individual requests information concerning herself). After reviewing the remainder of the request, we find the requestor also seeks incident reports involving both named individuals. If the requestor is the authorized representative of the second named individual, then the requestor is aware of any such incidents involving both named individuals and this aspect of the request does not constitute a request for unspecified reports; thus, it does not implicate the first named individual's right to privacy. Because we are unable to determine whether the requestor is acting as an authorized representative of the second named individual, we rule conditionally. Accordingly, if the requestor is not acting as an authorized representative of the second named individual, to the extent the department maintains law enforcement records involving either named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. If, however, the requestor is acting as an authorized representative of the second named individual, the department may not withhold information pertaining to incidents involving both named individuals under section 552.101 in conjunction with common-law privacy as a compilation of criminal history. In that case, we will consider any remaining exceptions against disclosure of such information.

Section 552.101 of the Government Code also encompasses section 1304(b) of title 8 of the United States Code, which addresses the confidentiality of records of the registration of aliens under section 1301 of the United States Code. Section 1304(b) provides:

(b) Confidential Nature

All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only

(1) pursuant to section 1357(f)(2) of this title, and

(2) to such persons or agencies as may be designated by the Attorney General.

8 U.S.C. § 1304(b). Upon review, we find the alien registration numbers we have marked are confidential under title 8, section 1304(b) of the United States Code. Thus, the department must withhold the alien registration numbers we have marked under section 552.101 of the Government Code in conjunction with section 1304(b) of the United States Code.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code, which pertains to criminal history record information (“CHRI”). CHRI generated by the National Crime Information Center (“NCIC”) or by the Texas Crime Information Center is confidential under federal and state law. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” Gov’t Code § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the NCIC network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990). *See generally* Gov’t Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI DPS maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. We note Federal Bureau of Investigation (“FBI”) numbers constitute CHRI generated by the FBI. Upon review, we find the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

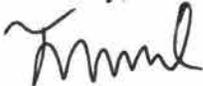
In summary, if the requestor is not acting as an authorized representative of the second named individual, to the extent the department maintains law enforcement records involving

either of the named individuals 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. If the requestor is acting as an authorized representative of the second named individual, the department must (1) withhold any law enforcement records the department maintains that involve only the first named individual and list him as a suspect, arrestee, or criminal defendant under section 552.101 of the Government Code in conjunction with common-law privacy, (2) withhold the alien registration numbers we have marked under section 552.101 of the Government Code in conjunction with section 1304(b) of the United States Code, (3) withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law, and (4) 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 570583

Enc. Submitted documents

c: Requestor  
(w/o enclosures)