



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 9, 2015

Ms. Linda A. Samples  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2015-21210

Dear Ms. Samples:

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# 582665 (ORR# 15-1026-6442).

The El Paso Police Department (the "department") received a request for all reports involving two named individuals at a specified address during a specified time period, including a specified report. You state the department has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has also found 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 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 the individual's criminal history and may not be withheld under section 552.101 on that basis.

The present request, in part, seeks all reports pertaining to two named individuals. This request requires the department to compile the named individuals' criminal histories and implicates the right to privacy of each named individual. Therefore, to the extent the department maintains law enforcement records, other than records relating to the incident specified in the request, listing 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.

We note the department has submitted call number 2015367376, which does not list either named individual as a suspect, arrestee, or criminal defendant. This information does not consist of a compilation of the named individuals' criminal histories, and the department may not withhold it under section 552.101 of the Government Code in conjunction with common-law privacy on that basis. Upon review, we find portions of call number 2015367376 satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the remaining information in call number 2015367376 under section 552.101 in conjunction with common-law privacy.

In summary, to the extent the department maintains law enforcement records, other than records relating to the incident specified in the request, listing 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. The department must withhold the information we marked within call number 2015367376 under section 552.101 of the Government Code in conjunction with common-law privacy and must release the remainder of call number 2015367376.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 582665

Enc. Submitted documents

c: Requestor  
(w/o enclosures)