



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 8, 2016

Mr. Nicholas Toulet
Assistant City Attorney
City of Midland
P. O. Box 1152
Midland, Texas 79701

OR2016-20297

Dear Mr. Toulet:

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# 629338 (ORR# 20099).

The Midland Police Department (the "department") received a request for information pertaining to a named individual. The department states it has disclosed some information to the requestor pursuant to section 411.087(a)(2) of the Government Code. *See Gov't Code* § 411.087(a)(2). The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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." *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing fact, the 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 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. The requestor asks for all information held by the department concerning a named individual. Therefore, to the extent the department maintains any unspecified law enforcement records depicting the 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.¹

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 629338

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As noted in part above, we understand, to the extent the department maintains any law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department has released any information to which the requestor would have a right of access under section 411.087(a)(2) of the Government Code.