



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2009

Mr. David K. Walker  
County Attorney  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2009-15214

Dear Mr. Walker:

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# 359506.

The Montgomery County Sheriff's Department (the "sheriff") received a request for a specified report, and all reports filed by a named individual against either of two other named individuals. 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.

Initially, we note you have submitted information that is not responsive to the instant request because it consists of a report not filed by the named individual or a report not filed against one of the other two named individuals. The sheriff need not release non-responsive information in response to this request and this ruling will not address that information.

Next, we note you have not submitted information responsive to the request for the specified report. Therefore, to the extent this information existed when the sheriff received the present request, we assume that it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, 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

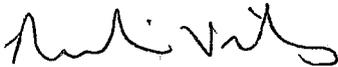
(Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. This office has found a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. 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, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In part, the present request requires the sheriff to compile unspecified police records concerning the named individuals. This request implicates such individuals' rights to privacy. Therefore, to the extent the sheriff maintains law enforcement records other than the specifically requested report depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 of the Government Code 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.oag.state.tx.us/open/index\\_orl.php](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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/cc

Ref: ID# 359506

Enc. Submitted documents

c: Requestor  
(w/o enclosures)