



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 24, 2009

Mr. Daniel Bradford  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2009-16706

Dear Mr. Bradford:

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# 362540.

The Travis County Sheriff's Office (the "sheriff") received a request for all incident reports pertaining to two named individuals for a specified time period. You claim that a portion of the requested information is excepted from disclosure under section 552.108 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."<sup>1</sup> Gov't Code § 552.101. Section 552.101 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. *See 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 demonstrated. *See id.* at 681-82. The

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has also found that 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) (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). Further, we find that 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 private and may not be withheld under section 552.101 on that basis.

Upon review, we find that the present request requires the sheriff to compile unspecified law enforcement records concerning the individuals at issue. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup>

We note, however, you have submitted a report in which the named individuals are not listed as suspects, arrestees, or criminal defendants. Because this information is not part of a compilation of the individuals' criminal history, the sheriff may not withhold it in its entirety under section 552.101 in conjunction with common-law privacy. However, we find that portions of the information at issue are highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note that the remaining information includes a Texas driver's license number. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code.

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<sup>2</sup>As our ruling is dispositive, we need not address your argument against disclosure.

In summary, to the extent the sheriff maintains records that depict the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold such information under section 552.101 in conjunction with common-law privacy. The sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The sheriff must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

Ref: ID# 362540

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)