



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 19, 2011

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2011-00879

Dear Ms. Lentz:

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# 410864.

The Williamson County Sheriff's Office (the "sheriff") received a request for all records pertaining to a named individual, including four specified incidents. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.137 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 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 demonstrated. *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. United States 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.

In this instance, the request seeks unspecified law enforcement records pertaining to a named individual. Thus, the request implicates the individual's rights to privacy. Therefore, to the extent the sheriff maintains records listing the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold this information under section 552.101 in conjunction with common-law privacy.

However, we note the requestor also seeks information pertaining to specified incidents. We find this portion of the request does not require the sheriff to compile unspecified law enforcement records of the named individual; thus, this portion of the request does not implicate the named individual's common-law right to privacy. Thus, the information pertaining to the specified incidents may not be withheld under section 552.101 based on common-law privacy. However, we will address your arguments against the disclosure of this information.

Section 552.101 also encompasses information made confidential by other statutes. Section 58.007 of the Family Code provides for the confidentiality of juvenile law enforcement records related to delinquent conduct that occurred on or after September 1, 1997. *See* Fam. Code § 51.03 (defining "delinquent conduct"). Section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we find the information we marked constitutes confidential juvenile law enforcement records under

section 58.007(c). Moreover, it does not appear any of the exceptions in section 58.007 apply to this information. Accordingly, the sheriff must withhold the information we marked under section 552.101 in conjunction with section 58.007(c).¹

In summary, to the extent the sheriff maintains records listing the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 410864

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive for this information, we do not address your remaining arguments against its release.