



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 4, 2014

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

OR2014-05596

Dear Ms. Koonce:

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# 518747.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for all records relating to a specified incident, as well as information pertaining to all other incident reports involving a named individual. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor excludes from the request Texas driver's license, Texas license plate, vehicle identification, and social security numbers. Accordingly, these types of information are not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office need not release non-responsive information in response to the request.

Section 552.101 of the Government Code excepts "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 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 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.

The instant request for information, in part, seeks unspecified sheriff's office's records pertaining to a named individual. This portion of the request requires the sheriff's office to compile the named individual's criminal history and implicates the named individual's right to privacy. Therefore, to the extent the sheriff's office maintains unspecified law enforcement records listing the named individual as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup> However, we note you have submitted the specified report and reports where the named individual is not listed as a suspect, arrestee, or criminal defendant; thus, these reports are not a compilation of the individual's criminal history and may not be withheld under section 552.101 on that basis. Accordingly, we will address your arguments for this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you have marked pertains to cases that concluded in results other than convictions or deferred adjudications. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the information you have marked.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559

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<sup>1</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information.

(Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. See ORD 127 at 3-4. Thus, except for basic information, the sheriff's office may withhold the information you have marked under section 552.108(a)(2) of the Government Code.<sup>2</sup>

You claim portions of the remaining information contain confidential information pursuant to common-law privacy. The two-prong test for common-law privacy was discussed above. See *Indus. Found.*, 540 S.W.2d at 681-82. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision Nos. 455 (1987) (prescription drugs, illnesses, operations, and handicaps), 343 (1982) (references in emergency medical records to drug overdoses, acute alcohol intoxication, obstetrical or gynecological operations or illnesses, convulsions or seizures, and emotional or mental distress). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Based on your representations and our review, the sheriff's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated how any of the remaining information at issue is highly intimate and embarrassing and of no legitimate public concern; thus, the sheriff's office may not withhold any of the remaining information at issue under section 552.101 in conjunction with common-law privacy.

In summary, to the extent the sheriff's office maintains unspecified law enforcement records listing the named individual as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. Except for basic information, the sheriff's office may withhold the information you have marked under section 552.108(a)(2) of the Government Code. Finally, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining responsive 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.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

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<sup>2</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information.

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 "Lee Seidlits", written in a cursive style.

Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/tch

Ref: ID# 518747

Enc. Submitted documents

c: Requestor  
(w/o enclosures)