



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 12, 2014

Deputy Danie Huffman
Public Information Officer
Parker County Sheriff's Office
129 Hogle Street
Weatherford, Texas 76086

OR2014-14075

Dear Deputy Huffman:

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# 530862.

The Parker County Sheriff's Office (the "sheriff's office") received a request for all information pertaining to two named individuals and a specified address. You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.147 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."¹ 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. 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.*

¹The office of the Attorney General will raise a mandatory exception such as 552.130 of the Government Code on behalf of a governmental body, but will ordinarily not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 present request, in part, requires the sheriff's office to compile unspecified law enforcement records concerning the named individuals and implicates the named individuals' right to privacy. We note, however, one of the named individuals is deceased. Thus, we find this individual's right to privacy has lapsed. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.-Texarkana 1979, writ ref'd n.r.e.); *see also* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Therefore, to the extent the sheriff's office maintains law enforcement records listing the living 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. 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. We note you have submitted information that does not list the living named individual as a suspect, arrestee, or criminal defendant. Accordingly, we will address your arguments against the disclosure of this information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state case number 2013-25549 is an open case with the Houston Police Department. You further state the case is currently in an active but suspended status and the Houston Police Department objects to the release of case number 2013-25549. Based on your representations and our review of the submitted information, we find that the release of the case number 2013-25549 would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to case number 2013-25549.

However, we note, and you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, a detailed description of the offense. *See* ORD 127 at 3-4. Thus, with the

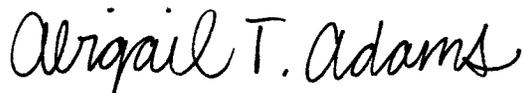
exception of the basic information, which you state you will release, the sheriff's office may withhold case number 2013-25549 under section 552.108(a)(1) of the Government Code on behalf of the Houston Police Department.

In summary, to the extent the sheriff's office maintains law enforcement records listing the living named individual in the request 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. With the exception of the basic information, which you state you will release, the sheriff's office may withhold case number 2013-25549 under section 552.108(a)(1) of the Government Code on behalf of the Houston Police Department. The sheriff's office must release the remaining requested information.

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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 530862

Enc. Submitted documents

c: Requestor
(w/o enclosures)