



January 7, 2015

Ms. Lisa Ott Laky
General Counsel
Austin Travis County Integral Care
P.O. Box 3548
Austin, Texas 78764

OR2015-00202

Dear Ms. Laky:

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# 549114.

The Austin-Travis County Mental Health and Mental Retardation Center d/b/a Austin Travis County Integral Care (the "ATCIC") received a request for several categories of information related to the interviews conducted in relation to a specified employment position, to include all applications, notes, and communications concerning the top five candidates for the specified employment position, the names and applications of the candidates who were selected for the position, and all interview and decision-making notes and logs composed as part of the employment process. You state the ATCIC will release most of the requested information to the requestor. You also state the ATCIC will redact information under sections 552.024(c), 552.130(c), and 552.147(b) of the Government Code and personal e-mail addresses under section 552.137 of the Government Code pursuant to Open Records

Decision No. 684 (2009).¹ You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.117 of the Government Code. Additionally, you state, and provide documentation showing, you have notified five individuals of their right to submit comments to this office explaining why the submitted information should not be released.² See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). 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 if it (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 satisfied. *Id.* at 681-82. This office has 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. 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. However, we note the criminal history information you have marked was provided by individuals as part of their applications for employment with the ATCIC; such information was not compiled by any governmental body. Thus, the information at issue, which we have marked for release, may not be withheld as a criminal history compilation on the basis of common-law privacy.

¹Section 552.024 of the Government Code authorizes a governmental body to redact from public release certain personal information of a current or former employee excepted from disclosure under section 552.117(a)(1) of the Government Code without the necessity of requesting a decision from this office under the Act, if the employee timely elected to withhold such information. See Gov't Code §§ 552.024(a)-(c), .117(a)(1). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. See *id.* § 552.147(b). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. See ORD 684.

²As of the date of this letter, this office has not received comments from any third party explaining why any of the submitted information should not be released.

Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of specified categories of individuals. *See* Gov't Code § 552.117. We note, however, section 552.117 applies only to records that a governmental body is holding in an employment capacity. The information at issue is not held by the ATCIC in an employment capacity. Therefore, we find section 552.117 of the Government Code does not apply to the information at issue, and the ATCIC may not withhold the information on that basis.

We note portions of the submitted information may be subject to section 552.1175 of the Government Code.³ Section 552.1175 protects the home address, home telephone number, date of birth, emergency contact information, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See id.* § 552.1175. Section 552.1175 applies, in part, to “juvenile probation and detention officers certified by the Texas Juvenile Justice Department [(the “department”)], or the predecessors in function of the department.” *Id.* § 552.1175(a)(10). Upon review, the submitted documentation reflects the individual whose information is at issue may be an officer certified with the department. Accordingly, the ATCIC must withhold the information we have marked under section 552.1175 if the individual to whom this information pertains is currently an officer certified by the department and elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code. However, the ATCIC may not withhold the information we have marked under section 552.1175 if the individual at issue is not currently an officer certified by the department or no election is made.

In summary, the ATCIC must withhold the information we have marked under section 552.1175 of the Government Code if the individual to whom this information pertains is currently an officer certified with the department and elects to restrict access to his information in accordance with section 552.1175(b) 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.texasattorneygeneral.gov/open/>

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 549114

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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