



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 28, 2015

Mr. Paul A. Ready  
Legal Department  
County of Galveston  
722 Moody Street, 5th Floor  
Galveston, Texas 77550

OR2015-08116

Dear Mr. Ready:

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# 561484.

The Galveston County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to a named individual or a certain address during a specified time period. You state the sheriff's office has provided some of the requested information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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. This section 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 or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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) (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.

You assert the request for information is for a compilation of criminal history information of the named individual and any family members living at the specified address because the request seeks unspecified law enforcement records pertaining to the named individual and the specified address. Upon review, the submitted information does not list the named individual as a suspect, arrestee, or criminal defendant. Furthermore, the request for all records pertaining to the specified address does not require the sheriff's office to compile unspecified law enforcement records on any particular individual and does not implicate any particular individual's right to privacy on the basis of compiled criminal history. Thus, no part of the submitted information constitutes a criminal history compilation, and the sheriff's office may not withhold any of the submitted information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information made confidential by other statutes, such as section 58.007 of the Family Code, which provides, in relevant part:

(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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). 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 at the time of the reported conduct. *See id.* § 51.02(2). Although you assert some of the submitted information is confidential under section 58.007, we find the information at issue does not involve juveniles as suspects or offenders of delinquent conduct

or conduct indicating a need for supervision for purposes of section 58.007. Accordingly, we find you have not demonstrated the applicability of section 58.007(c) of the Family Code to the information at issue. Consequently, the sheriff's office may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. You state incident report number 13-00001586 pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude section 552.108(a)(2) is applicable to this information.

As you acknowledge, 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 Publ'g 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 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state the sheriff's office has released, the sheriff's office may withhold incident report number 13-00001586 under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You state the sheriff's office is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. This section makes only the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier confidential. *Id.* at 2. Thus, to the extent the remaining information at issue consists of the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the sheriff's office must withhold those telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, to the extent the remaining information does not consist of the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the sheriff's office may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

As previously discussed, section 552.101 of the Government Code encompasses the doctrine of common-law privacy, which is subject to the two-part test discussed above. *See Indus. Found.*, 540 S.W.2d at 685. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. You claim some of the remaining information, including event report number 2015-018687 in its entirety, is protected under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of event report number 2015-018687 must be withheld on the basis of common-law privacy. Accordingly, the sheriff's office may not withhold event report number 2015-018687 in its entirety under section 552.101 of the Government Code on that basis. However, we agree some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff's office must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff's office may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

You have marked information you seek to withhold under section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note, however, some of the information you have marked does not consist of information that is subject to section 552.130. As such, this information, which we have marked for release, may not be withheld on that basis. Therefore, with the exception of the information we have marked for release, the sheriff's office must withhold the motor vehicle record information you have marked, as well as the additional information we have marked for withholding, under section 552.130 of the Government Code.<sup>1</sup>

In summary, with the exception of basic information, the sheriff's office may withhold incident report number 13-00001586 under section 552.108(a)(2) of the Government Code. To the extent the submitted information includes the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the sheriff's office

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<sup>1</sup>We note the requestor has a right of access beyond that of the general public to her own motor vehicle record information. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself).

must withhold that information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. 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. With the exception of the information we have marked for release, the sheriff's office must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The sheriff's office must release the remaining 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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bhf

Ref: ID# 561484

Enc. Submitted documents

c: Requestor  
(w/o enclosures)