



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 16, 2015

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

OR2015-19389

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# 579529.

The Galveston County Sheriff's Office (the "sheriff's office") received a request for information about the times a named individual has been jailed by Galveston County in the last five years, including a specified incarceration. You assert the sheriff's office need not comply with the request to release the requested information pursuant to section 552.028 of the Government Code. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claims and reviewed the submitted information.

Section 552.028 of the Government Code reads as follows:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means:

(1) a secure correctional facility, as defined by Section 1.07, Penal Code;

(2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and

(3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Gov't Code § 552.028. The instant request shows the requestor is the mother of the named individual and indicates the individual is incarcerated. You assert she may be acting on behalf of the named individual. However, the requestor does not indicate she is acting as her son's agent, and you have not established the requestor is, in fact, acting as her son's agent. Therefore, we conclude section 552.028 of the Government Code does not permit the sheriff's office to decline to comply with this 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 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 met. *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. 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.

This request, in part, requires the sheriff's office to compile unspecified law enforcement records concerning the named individual. We find such a request for unspecified law enforcement records implicates the individual's right to privacy. Therefore, to the extent the sheriff's office maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, other than for the incarceration specified in the request, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note, though, the sheriff's office has submitted information pertaining to a specified incarceration. Thus, this information is not part of a compilation of the named individual's criminal history, and it may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, as you raise no further exceptions to disclosure of this information, the information about the named individual's specified incarceration 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ramsey Abarca  
Assistant Attorney General  
Open Records Division

RAA/dls

Ref: ID# 579529

Enc. Submitted documents

c: Requestor  
(w/o enclosures)