



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 27, 2005

Ms. Julie Joe
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2005-11614

Dear Ms. Joe:

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# 238848.

The Travis County Sheriff's Office (the "sheriff's office") received a request for "any information" related to a named individual. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 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 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). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683.

Further, when a law enforcement agency is asked to compile a particular individual's criminal history information, the compiled information takes on a character that implicates

the individual's right to privacy in a manner that the same information in an uncompiled state does not. *See U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); *see also* Open Records Decision No. 616 at 2-3 (1993). However, information that refers to an individual solely as a victim, witness, or involved person is not private under *Reporters Committee* and may not be withheld under section 552.101 on that basis.

In the present request, the requestor asks for "any information" regarding a named individual. We determine that the request for any information regarding a named individual implicates this individual's right to privacy. Thus, to the extent the sheriff's office maintains law enforcement records depicting the individual at issue as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the decision in *Reporters Committee*.

Incident report number 050022305 contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only this information would be excepted from disclosure under section 552.101 in conjunction with common-law privacy. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual whose privacy is implicated, as well as the nature of the incident, all the information at issue must be withheld to protect that individual's privacy. In this case, the requestor knows the identity of the individual whose privacy is implicated, as well as the nature of the incident; thus, we conclude that report number 050022305 that we have marked must be withheld in its entirety pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent the sheriff's office maintains law enforcement records depicting the individual at issue as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information pursuant to section 552.101 in conjunction with common-law privacy in accordance with the decision in *Reporters Committee*. The submitted report we have marked must be withheld in its entirety pursuant to section 552.101 in conjunction with common-law privacy.¹

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

¹As our ruling is dispositive, we do not address your remaining argument.

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James Forrest
Assistant Attorney General
Open Records Division

JF/sdk

Ref: ID# 238848

Enc. Submitted documents

c: Ms. Beverly Starks
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(w/o enclosures)