



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 25, 2010

Ms. M. Ann Montgomery
Assistant Ellis County & District Attorney
1201 N. Hwy 77, Suite 104
Waxahachie, Texas 75165-7832

OR2010-02863

Dear Ms. Montgomery:

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# 371333.

The Ellis County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified address and four named individuals from January 1, 2009, to November 30, 2009. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (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 established. *See 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

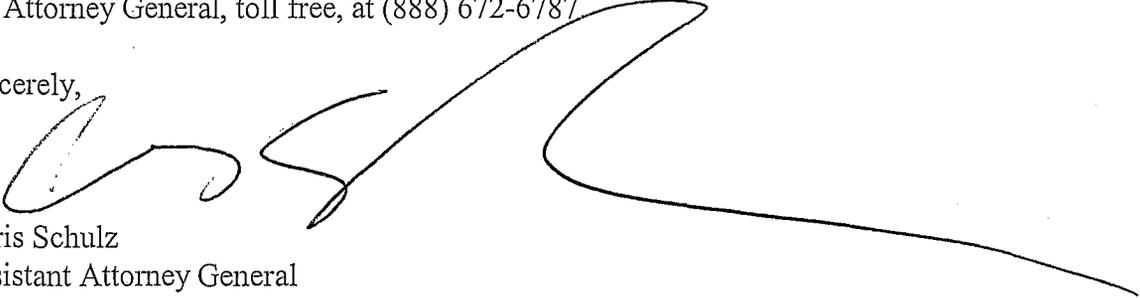
information). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, an individual's current involvement in the criminal justice system, including active warrant information, does not constitute criminal history information for the purposes of section 552.101.

The present request requires the sheriff to compile unspecified police records concerning the named individuals. Therefore, to the extent that the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted information that does not list the named individuals as suspects, arrestees, or criminal defendants. You have also submitted information pertaining to an individual's current involvement in the criminal justice system. Thus, this information does not implicate the named individuals' right to privacy and it may not be withheld under section 552.101 on this basis. As you raise no further exceptions against disclosing this information, it 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 371333

Enc. Submitted documents

cc: Requestor
(w/o enclosures)