



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2010

Mr. Martin L. Peterson
Assistant District Attorney
Dallas County Criminal District Attorney's Office
Frank Cowley Courts Building
133 North Industrial Boulevard, LB-19
Dallas, Texas 75207

OR2010-07303

Dear Mr. Peterson:

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# 380007.

The Dallas County District Attorney's Office (the "district attorney") received a request for "[a]ny and all records regarding the arrest or prosecution of criminal charges filed against [a named individual]."¹ You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.1325 of the Government Code. We have considered the exceptions you claim.

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 (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. 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) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and

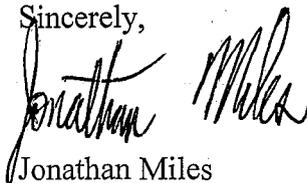
¹You state, and have provided documentation showing, the district attorney sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to narrow or clarify request, but may not inquire into purpose for which information will be used).

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. The present request seeks all information pertaining to the arrest or prosecution of criminal charges against a named individual. This request requires the district attorney to compile the named individual's criminal history. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the district attorney maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the district attorney must withhold such information under section 552.101 in conjunction with common-law privacy.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 380007

Enc. Submitted documents

c: Requestor
(w/o enclosures)