



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2010

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2010-08505

Dear Ms. Lentz:

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# 382310.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to two named individuals and a specified address. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor has excluded from her request social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers. Thus, any such information in the submitted information is not responsive to the instant request. We also note portions of the submitted information, which we have marked, are not responsive to the instant request because they do not pertain to the two named individuals or the specified address. The sheriff need not release nonresponsive information in response to this request, and this ruling will not address that 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. Common-law privacy 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). The type of information considered intimate or 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. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has found that 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 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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request requires the sheriff to compile unspecified law enforcement records concerning the individuals at issue. We find this request for unspecified law enforcement records implicates the named individuals' right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note that the sheriff has submitted information that does not depict the named individuals as suspects, arrestees, or criminal defendants. Thus, this information does not constitute a criminal history compilation protected by common-law privacy and may not be withheld on that basis under section 552.101. Accordingly, we will address your arguments against disclosure of this information.

You claim that the information you have marked is confidential under common-law privacy. However, upon review, we find the sheriff has failed to demonstrate how the marked information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the sheriff may not withhold the marked information under section 552.101 in conjunction with common-law privacy.

Section 552.101 also encompasses section 261.201(a) of the Family Code, which provides as follows:

- (a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Although report number C04-11-0352 references child protective services, the report does not reflect, nor have you explained, that the report was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). Furthermore, you have not established the information is a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Therefore, the sheriff may not withhold report number C04-11-0352 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that report numbers C10-01-1495, C10-01-3002, C10-01-3332, and C10-01-7612 relate to a pending criminal prosecution being conducted by the Williamson County District Attorney’s Office (the “district attorney”). You also state the district attorney has requested that the information at issue not be released. Based upon these representations, we conclude that release of report numbers C10-01-1495, C10-01-3002, C10-01-3332, and C10-01-7612 would interfere with the detection, investigation, or prosecution of crime. *See 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) (court delineates law enforcement interests that are present in active cases). Accordingly, we conclude that section 552.108(a)(1) of the Government Code is generally applicable to report numbers C10-01-1495, C10-01-3002, C10-01-3332, and C10-01-7612.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred

adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report number C04-11-0352, C04-12-1071, C04-12-5880, C05-01-4623, C08-06-5035, C08-06-5041, and C10-10-6304 relate to concluded cases that did not result in convictions or deferred adjudications. Based on your representations, we conclude section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff may withhold report numbers C10-01-1495, C10-01-3002, C10-01-3332, and C10-01-7612 from disclosure under section 552.108(a)(1) and report numbers C04-11-0352, C04-12-1071, C04-12-5880, C05-01-4623, C08-06-5035, C08-06-5041, and C10-10-6304 from disclosure under section 552.108(a)(2).<sup>1</sup>

In summary, to the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the sheriff may withhold report numbers C10-01-1495, C10-01-3002, C10-01-3332, and C10-01-7612 from disclosure under section 552.108(a)(1) of the Government Code and report numbers C04-11-0352, C04-12-1071, C04-12-5880, C05-01-4623, C08-06-5035, C08-06-5041, and C10-10-6304 from disclosure under section 552.108(a)(2) of the Government Code. As you raise no further exceptions, the remaining information 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](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

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 382310

Enc. Submitted documents

c: Requestor  
(w/o enclosures)