



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 15, 2010

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

OR2010-17274

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# 400076.

The Williamson County Sheriff's Office (the "sheriff") received a request for all call for service records pertaining to a specified address and a named individual for a specified time period. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor excludes social security numbers and Texas driver's license, license plate, and vehicle identification numbers from her request for information. Accordingly, these types of information are not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff need not release non-responsive information in response to the request.

Section 552.101 of the Government Code excepts from public 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 (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and

(2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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. United States 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.

The present request seeks, in part, information pertaining to a named individual during a specified time period. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

You have submitted records that do not list the named individual as a suspect, arrestee, or criminal defendant. Because these records do not constitute a compilation of the named individual's criminal history, the sheriff may not withhold them in their entirety under section 552.101 on that basis. Common-law privacy also protects the types of information considered highly intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation*, including 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. *See Indus. Found.*, 540 S.W.2d at 683. We note this office has also found 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). Upon review, we find most of the information you marked is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the sheriff must withhold the marked information under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated how the remaining information you marked is highly intimate or embarrassing. Thus, the sheriff may not withhold the information we marked for release under section 552.101 in conjunction with common-law privacy.

We note portions of the remaining information are subject to section 552.1175 of the Government Code, which provides in part:

- (a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b).¹ We marked portions of the remaining information which relate to a peace officer who is employed by a governmental body other than the sheriff. Thus, to the extent the information we marked relates to a peace officer who elects to restrict access to the information in accordance with section 552.1175(b), it must be withheld from disclosure pursuant to section 552.1175. Conversely, if the peace officer at issue does not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld pursuant to section 552.1175.

In summary, to the extent the sheriff maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information marked for release, the sheriff must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the information we marked belongs to a peace officer who elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code, the sheriff must withhold the information we marked under section 552.1175 of the Government Code. 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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 400076

Enc. Submitted documents

c: Requestor
(w/o enclosures)