



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2010

Ms. Judy Thomason
Office Manager
Rockwall County Sheriff's Office
972 T.L. Townsend Drive
Rockwall, Texas 75087

OR2010-18315

Dear Ms. Thomason:

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# 402197.

The Rockwall County Sheriff's Office (the "sheriff") received a request for all records pertaining to a named individual. You state you have released some information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 common-law right to 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 demonstrated. *Id.* at 681-82. 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. However, information that refers to an individual solely as a victim, witness, or involved person is not private because it is not criminal history information, and therefore, may not be withheld under section 552.101 on that basis.

The present request seeks all records related to the named individual. We find this request requires the sheriff to compile unspecified law enforcement records concerning the named individual and, thus, implicates the named individual's right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individual as either a suspect, arrestee, or criminal defendant, 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 you have submitted a report that does not depict the named individual as a suspect, arrestee, or criminal defendant. This report is not part of a compilation of the individual's criminal history. Accordingly, we will address your remaining argument under section 552.101 Government Code for this information.

Section 552.101 also encompasses information that other statutes make confidential, such as section 58.007 of the Family Code, which provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of title 3 of the Family Code). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age. *Id.* § 51.02(2). Upon review, we agree report number 20010285 involves delinquent conduct

that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply to the information in this report. Therefore, the sheriff must withhold report number 20010285 under section 552.101 in conjunction with section 58.007(c) of the Family Code.

In summary, to the extent the sheriff maintains law enforcement records that depict the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must withhold report number 20010285 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 402197

Enc. Submitted documents

c: Requestor
(w/o enclosures)