



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2012

Ms. D. Armstrong
Administrative Assistant
Criminal Division
Hood County Sheriff's Office
400 Deputy Larry Miller Drive
Granbury, Texas 76048

OR2012-17099

Dear Ms. Armstrong:

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# 468966.

The Hood County Sheriff's Office (the "sheriff's office") received a request for all police reports for a specified address during a specified time period and a second request from the same requestor for two specified reports filed by the requestor and a named individual pertaining to a second named individual. We understand the sheriff's office has released some responsive information. You claim some of the submitted information is excepted from disclosure under sections 552.101 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 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). 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. 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.

You assert the present request requires the sheriff's office to compile unspecified law enforcement records concerning the two named individuals. We note, however, the request is for information pertaining to a specified address and two specified reports. Thus, we find this request does not require the sheriff's office to compile an individual's criminal history and does not implicate the privacy interests of any individual. Accordingly, the sheriff's office may not withhold the submitted information as a criminal history compilation under section 552.101 of the Government Code in conjunction with common-law privacy.

You seek to withhold report numbers S1208556, S1212499, S1214775, and S1217540 under section 552.108(a)(1) of the Government Code, which 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(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state report number S1212499 pertains to a pending prosecution and report number S1217540 relates to an on-going criminal investigation. Based upon your representations and our review, we find release of these reports 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

You also state report numbers S1208556 and S1214775 "did not result in a conviction or deferred adjudication." Upon further review, we find you have failed to sufficiently demonstrate release of these reports would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Consequently, the sheriff's office may not withhold report numbers S1208556 and S1214775 under section 552.108(a)(1) of the Government Code.

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 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). With the exception of the basic front page offense and arrest information, the sheriff's office may withhold report numbers S1212499 and S1217540 under section 552.108(a)(1) of the Government Code.

As previously discussed, section 552.101 of the Government Code encompasses the common-law right of privacy. Common-law privacy also protects the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. See 540 S.W.2d at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has 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. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure), 422 (1984), 343 (1982). Upon review, we find some of the remaining records contain highly intimate or embarrassing information of no legitimate public concern. Thus, the sheriff's office must withhold the information we have marked in the remaining records under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides, in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

...

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.¹

Gov't Code § 552.130(a)(1), (3). Accordingly, the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception such as section 552.130 on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, with the exception of the basic front page offense and arrest information, the sheriff's office may withhold report numbers S1212499 and S1217540 under section 552.108(a)(1) of the Government Code. The sheriff's office must withhold the information we have marked in the remaining records (1) under section 552.101 of the Government Code in conjunction with common-law privacy, and (2) under section 552.130 of the Government Code. The remaining submitted information must be released.²

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 468966

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the remaining information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).