



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 18, 2013

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2013-10270

Dear Ms. Winn:

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# 490553.

The Travis County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for information pertaining to a named individual, specified incidents, specified addresses, specified police report numbers, and certain personnel information of involved officers. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 and 552.119 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note it appears the sheriff's office did not submit the requested information pertaining to the two specified addresses and some of the specified police report numbers. We assume, to the extent any additional responsive information existed when the sheriff's office received the request for information, the sheriff's office has released it to the requestor. If not, then the sheriff's office must do so immediately. *See* Gov't Code §§ 552.006, 552.301, 552.302; Open Records Decision No. 664 (2000). However, we will address your arguments to withhold the submitted information from release under the Act.

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 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) (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 requestor asks, in part, for all information held by the sheriff's office concerning a named individual. Therefore, to the extent the sheriff's office maintains any unspecified law enforcement information depicting the individual as a suspect, arrestee, or criminal defendant, such information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. However, the requestor also asks for information pertaining to specific arrests. Because the requestor specifically asks for this information, it is not part of a compilation of the individual's criminal history and may not be withheld on that basis. You have also submitted documents that do not list the named individual as a suspect, arrestee, or criminal defendant. Therefore, this information is not confidential under common-law privacy, and the sheriff's office may not withhold it under section 552.101 on that ground.

Section 552.117(a)(2) of the Government Code is applicable to some of the submitted information.¹ Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 or section 552.1175 of the Government Code.² Gov't Code § 552.117(a)(2). The sheriff's office must withhold the information pertaining to a peace officer we have marked under section 552.117(a)(2) of the Government Code.

Section 552.119 of the Government Code provides the following:

- (a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).*

²"Peace officer" is defined by article 2.12 of the Texas Code of Criminal Procedure.

physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or
- (3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Id. § 552.119. You explain that the submitted information contains photographs of police officers who “may participate in undercover assignments” and “release of their photographs would endanger their lives or physical safety.” Based on this representation, we agree that the sheriff’s office must withhold the photographs we have marked under section 552.119.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Accordingly, the sheriff’s office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

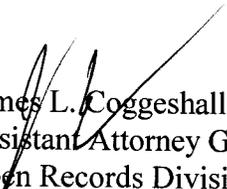
To summarize, the sheriff’s office must withhold any unspecified law enforcement information depicting the named individual as a suspect, arrestee, or criminal defendant under section 552.101 of the Government Code in conjunction with common law privacy. The sheriff’s office must withhold the information we have marked under sections 552.117(a)(2), 552.119, and 552.130 of the Government Code. The sheriff’s office must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 490553

Enc. Submitted documents

c: Requestor
(w/o enclosures)