



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2013

Ms. Renae Mayfield
Custodian of Records
Kaufman County Sheriff's Office
P.O. Box 12548
Kaufman, Texas 75142

OR2013-12054

Dear Ms. Mayfield:

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# 493320.

The Kaufman County Sheriff's Office (the "sheriff's office") received a request for all arrest records regarding three specified persons. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim.

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 if it (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 established. *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) (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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, we note because the common-law right to privacy is a personal right that lapses at death, common-law privacy does not protect information that relates only to a deceased individual. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); Open Records Decision No. 272 at 1 (1981).

The present request requires the sheriff's office to compile unspecified law enforcement records concerning the three individuals named in the request, thus implicating the named individuals' rights to privacy. However, we note one of the named individuals at issue is deceased. Therefore, the sheriff's office may not withhold information pertaining to that individual under section 552.101 in conjunction with common-law privacy. However, to the extent the sheriff's office maintains law enforcement records listing the remaining named individuals as suspects, arrestees, or criminal defendants, the sheriff's office must withhold such information under section 552.101 in conjunction with common-law privacy.¹ As you raise no further exceptions to disclosure of the information pertaining to deceased individual, that 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.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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

¹As we are able to make this determination, we need not consider your remaining argument against disclosure.

Ref: ID# 493320

Enc. Submitted documents

c: Requestor
(w/o enclosures)