



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 25, 2014

Ms. Savannah Gonzalez
Assistant District Attorney
Hidalgo County
100 North Closner, Room 303
Edinburg, Texas 78539

OR2014-12949

Dear Ms. Gonzalez:

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# 530614.

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for a list of all cash bonds of \$250 or more deposited by defendants during a specified time period, the names and addresses of the depositors and defendants for those bonds, and the case numbers associated with those bonds. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, we note the requestor only requested the specified list, names and addresses, and case numbers. Further, the requestor only requested information relating to cash bonds of \$250 or more. Accordingly, to the extent the submitted information does not consist of

¹Although you do not cite to section 552.136 of the Government Code in your brief to this office, we understand you to raise section 552.136 based on the substance of your arguments.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

the specified types of information or pertains to cash bonds of less than \$250, such information is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the sheriff's office is not required to release non-responsive information in response to this request.³

Next, we address your contention that complying with the request will require the sheriff's office "to search through individual forms and cross-check each with the defendant's information and/or case number." Although a governmental body is not required to create new information in response to a request, it does have a duty to make a good-faith effort to relate a request for information to information in existence at the time of the request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); see also Open Records Decision No. 561 at 8–9 (1990). A governmental body may not refuse to comply with a request on the ground of administrative inconvenience. See *Indus. Found v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). You have submitted information that you indicate is responsive to the request. Accordingly, we will address your arguments against public disclosure of the submitted information.

Section 552.101 of the Government Code excepts "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 is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d at 685. 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. Upon review, we find you have failed to demonstrate the present request requires the sheriff's office to compile unspecified law enforcement records concerning named individuals. Therefore, the sheriff's office may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the sheriff's office must release the responsive information.

³As we are able to make this determination, we do not address your argument under section 552.136 of the Government 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.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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 530614

Enc. Submitted documents

c: Requestor
(w/o enclosures)