



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 28, 2015

Mr. Paul A. Ready
Legal Department
County of Galveston
722 Moody Street, 5th Floor
Galveston, Texas 77550

OR2015-08163

Dear Mr. Ready:

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# 563200.

The Galveston County Sheriff's Office (the "sheriff's office") received a request for records of police activity involving two specified addresses and three named individuals during a specified time frame. You claim the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.¹ 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 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. 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

¹You acknowledge, and we agree, the sheriff's office did not comply with the requirements of section 552.301 of the Government Code in raising section 552.101. See Gov't Code § 552.301(b). Nonetheless, section 552.101 is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. See *id.* §§ 552.007, .302. Thus, we will consider the sheriff's office's arguments under section 552.101.

satisfied. *Id.* at 681-82. This office has found 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) (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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request seeks, in part, all reports pertaining to three named individuals during a specified time frame. This request requires the sheriff's office to compile the named individuals' criminal histories and implicates the named individuals' rights to privacy. We note, however, the requestor is one of the named individuals whose privacy interest is at issue. *See Gov't Code § 552.023(a)* (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests); *Open Records Decision No. 481 at 4* (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the requestor has a right of access to information pertaining to himself that would otherwise be confidential under common-law privacy. However, to the extent the sheriff's office maintains law enforcement records listing any of the named individuals other than the requestor as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note you have submitted information that does not list any of the named individuals other than the requestor as a suspect, arrestee, or criminal defendant. Accordingly, the sheriff's office may not withhold this information from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy on that basis. As you raise no further exceptions to disclosure of this information, it must be released.

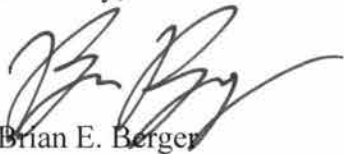
In summary, to the extent the sheriff's office maintains law enforcement records listing any of the named individuals other than the requestor as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the submitted information that does not list any of the named individuals other than the requestor as a suspect, arrestee, or criminal defendant.²

²We note the requestor has a special right of access to some of the information being released. *See Gov't Code § 552.023(a)*; *ORD 481 at 4*. Accordingly, if the sheriff's office receives another request for this information from an individual other than this requestor, the sheriff's office must again seek a ruling from this office.

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 563200

Enc. Submitted documents

c: Requestor
(w/o enclosures)