



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 22, 2015

Deputy D. Huffman  
Public Information Officer  
Parker County Sheriff's Office  
129 Hogle Street  
Weatherford, Texas 76086

OR2015-14877

Dear Deputy Huffman:

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# 572543.

The Parker County Sheriff's Office (the "sheriff's office") received a request for all information pertaining to two named individuals and a specified address. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section 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 met. *Id.* at 681-82. A compilation of an individual's criminal history is highly

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<sup>1</sup>Although you also raise section 552.121 of the Government Code, you have not submitted arguments explaining how this section applies to the submitted information. Therefore, we assume you no longer assert this claim. *See* Gov't Code §§ 552.301, .302.

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 present request requires the sheriff's office to compile unspecified law enforcement records concerning the named individuals. We find such a request for unspecified law enforcement records implicates the individuals' rights to privacy. Therefore, to the extent the sheriff's office maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, information that refers to an individual solely as a victim, witness, or involved person is not private and may not be withheld under section 552.101 on that basis. We note you have submitted information that does not list either of the named individuals as a suspect, arrestee, or criminal defendant. This information does not constitute part of a criminal history compilation and may not be withheld on that basis.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides, in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Although you

assert the remaining information is confidential under section 58.007, we find the information at issue does not involve a juvenile as a suspect or offender of delinquent conduct or conduct indicating a need for supervision for purposes of section 58.007. Accordingly, we find you have not demonstrated the applicability of section 58.007(c) of the Family Code to the information at issue. Consequently, the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. You represent incident report number 2005-01478 pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note, however, basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. *See id.* 127 at 3-4. Thus, with the exception of basic information, the sheriff's office may withhold incident report number 2005-01478 under section 552.108(a)(2) of the Government Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses the doctrine of constitutional privacy, which consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual's autonomy within "zones of privacy," which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common-law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). Upon review,

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

we find you have failed to demonstrate how any of the remaining information falls within the zones of privacy or implicates an individual's privacy interests for purposes of constitutional privacy. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with constitutional privacy.

Section 552.101 of the Government Code also encompasses section 1702.284(a) of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the [Texas Private Security Board], to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

Occ. Code § 1702.284(a); *see also id.* § 1702.002(1)(A)(ii) (defining "alarm system" as electronic equipment and devices designed to detect or signal the occurrence of a robbery or other emergency). You raise section 1702.284 for the remaining information, which consists of law enforcement investigation records. However, we note section 1702.284 is not applicable to investigative information. *See* Act of June 19, 1983, 68th Leg., R.S., ch. 496, § 1, 1983 Tex. Gen. Laws 2915. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code.

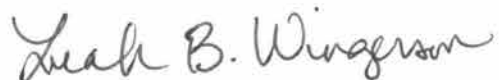
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we find the sheriff's office has failed to demonstrate the remaining information consists of motor vehicle record information for purposes of section 552.130. Consequently, the sheriff's office may not withhold any of the remaining information under section 552.130 of the Government Code.

In summary, to the extent the sheriff's office maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the sheriff's office may withhold incident report number 2005-01478 under section 552.108(a)(2) 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](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,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/bhf

Ref: ID# 572543

Enc. Submitted documents

c: Requestor  
(w/o enclosures)