



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2017

Ms. Jennifer Gonzales
Assistant Criminal District Attorney
County of Hays
712 South Stagecoach Trail, Suite 2057
San Marcos, Texas 78666

OR2017-03078

Dear Ms. Gonzales:

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# 645305 (Ref. No. 16-0928).

The Hays County Criminal District Attorney's Office (the "district attorney's office") received a request for all information pertaining to either of two named individuals. The district attorney's office claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district attorney's office claims.

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 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 requires the district attorney's office to compile unspecified law enforcement records concerning the individuals named in the request. Thus, the request implicates the named individuals' rights to privacy. Therefore, to the extent the district attorney's office maintains law enforcement records depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the district attorney's office must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 645305

Enc. Submitted documents

c: Requestor
(w/o enclosures)