



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 31, 2017

Ms. Myrna S. Reingold
Legal Department
County of Galveston
722 Moody Avenue, 5th Floor
Galveston, Texas 77550

OR2017-11847

Dear Ms. Reingold:

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# 659756.

The Galveston County Sheriff's Office (the "sheriff's office") received a request for all reports pertaining to four named individuals, including specified incidents. You claim the submitted 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 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 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

¹We note, and you acknowledge, the sheriff's office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301. Nonetheless, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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 the present request, in part, requires the department to compile unspecified law enforcement records concerning the named individuals. Therefore, to the extent the sheriff's office maintains unspecified 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 in conjunction with common-law privacy. We note, however, the requestor asks for information pertaining to the specified incidents. Because the requestor specifically asks for this information, it is not part of a compilation of any individual's criminal history and may not be withheld on that basis. We note you have submitted information pertaining to the specified incidents. We also note you have submitted information that does not list the specified individuals as a suspect, arrestee, or criminal defendant. Therefore, this information is not confidential under common-law privacy, and the sheriff's office may not withhold it under section 552.101 of the Government Code on that ground. Accordingly, we will address your argument against disclosure of this information.

As noted above, section 552.101 of the Government Code encompasses the doctrine of common-law privacy. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Indus. Found.*, 540 S.W.2d at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.): Upon review, we find some of the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, with the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked and we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated the remaining information you have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, the remaining information may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

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 a personal

identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the sheriff's office must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

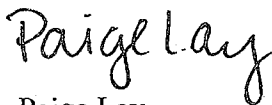
Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the [Act]." *Id.* § 552.147. Therefore, the sheriff's office may withhold the social security numbers contained in the remaining information under section 552.147 of the Government Code.

In summary, to the extent the sheriff's office maintains unspecified 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 in conjunction with common-law privacy. With the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked and we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the information you have marked under section 552.130 of the Government Code. The sheriff's office may withhold the social security numbers contained in the remaining information under section 552.147 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 659756

Enc. Submitted documents

c: Requestor
(w/o enclosures)