



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Ms. Derenda Rush
Service Division
Amarillo Police Department
200 Southeast Third Avenue
Amarillo, Texas 79101-1514

OR2017-28267

Dear Ms. Rush:

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# 687457 (APD Request # 17-2364).

The Amarillo Police Department (the "department") received a request for information pertaining to two named individuals. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

Initially, we note the requestor, in his official capacity as a court investigator with the Superior Court of California, County of Lake, asserts he has right of access to the requested information under various California probate and civil codes. The Act generally does not incorporate the confidentiality or access provisions of other states' statutes and regulations because those laws only govern the disclosure of information held by those states. *But see* Open Records Decision No. 561 at 6-7 (1990) (noting that if agency of federal government shares its information with Texas governmental entity, Texas entity must withhold information that federal agency determined to be confidential under federal law). The requested information is maintained by the department, which is subject to the state laws of Texas. Thus, although these California provisions may authorize the requestor to obtain certain information, these statutes do not grant the requestor access to records of a Texas governmental body that are excepted from disclosure under the Act. Accordingly, we will address the department's argument against disclosure of the requested 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 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 that a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public.

The present request seeks unspecified law enforcement records pertaining to the named individuals. This request requires the department to compile the named individuals’ criminal histories and implicates the named individuals’ rights to privacy. Accordingly, to the extent the department maintains law enforcement records listing either of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/som

Ref: ID# 687457

Enc: Submitted documents

c: Requestor
(w/o enclosures)