



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2017

Ms. Melanie Bybee
Administrative Assistant
Somervell County Sheriff's Office
P.O. Box 3268
Glen Rose, Texas 76043

OR2017-28701

Dear Ms. Bybee:

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# 688332.

The Somervell County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified police report. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

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." *Id.* § 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. Types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, 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.

You contend the present request requires the sheriff's office to compile unspecified law enforcement records concerning a named individual. We note, however, the requestor is seeking information related to a specified police report. Thus, we find you have failed to demonstrate the present request requires the sheriff's office to compile unspecified law enforcement records concerning the named individual. Accordingly, none of the submitted information may be withheld as a compilation of the individual's criminal history under section 552.101 of the Government Code in conjunction with common-law privacy. However, upon review, we agree the information at issue contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

In this instance, the requestor's comments reveal the requestor knows the nature of the private information at issue. Additionally, we note you released to the requestor a copy of the offense report and an internal affairs narrative, and this information reveals the identity of the individual involved.¹ Therefore, withholding only certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the sheriff's office must withhold the submitted information in its entirety 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/>

¹In the future, the sheriff's office should redact such information before sending a copy to the requestor. See Gov't Code § 552.352(a) (person commits offense if person distributes information considered confidential under the Act).

[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 black ink, appearing to read "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff
Assistant Attorney General
Open Records Division

EMG/sb

Ref: ID# 688332

Enc. Submitted documents

c: Requestor
(w/o enclosures)