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ATTORNEY GENERAL OF TEXAS

January 23, 2018

Mr. Robert S. Davis
Counsel for Hudspeth County
Flowers & Davis, P.L.L.C.
1021 East Southeast Loop 323, Suite 200
Tyler, Texas 75701

OR2018-01407

Dear Mr. Davis:

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# 693274.

Hudspeth County (the "county"), which you represent, received two requests from two requestors for information pertaining to a named individual. The county states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.103, 552.130, and 552.147 of the Government Code.¹ We have considered the claimed exceptions. We have also considered comments submitted by a representative of the requestors. *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."² Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which

¹Although the county also raises section 552.1425 of the Government Code, we note this section is not an exception to disclosure. Rather, this section provides for civil penalties when a private entity disseminates certain criminal history record information. *See* Gov't Code § 552.1425.

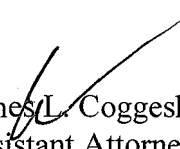
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

protects information that (1) contains highly intimate or embarrassing fact, 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 satisfied. *Id.* at 681-82. 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. The requestors ask for all information held by the county concerning a named individual. Therefore, to the extent the county maintains any unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the county must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.³

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

³As our ruling is dispositive, we do not address the arguments of the county to withhold this information.

Ref: ID# 693274

Enc. Submitted documents

c: Requestor
(w/o enclosures)