



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 2, 2019

Ms. Jennifer Stark
Assistant District Attorney
Lubbock County
P.O. Box 10536
Lubbock, Texas 79408

OR2019-08851

Dear Ms. Stark:

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# 757512 (ORR 1248).

The County of Lubbock (the "county") received a request for information pertaining to a named individual during a specified time period. You claim some of the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim.

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 (1) contains highly intimate or embarrassing facts, 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. Types of information considered intimate and

¹We note the county did not comply with section 552.301 of the Government Code in requesting a ruling from this office. See Gov't Code § 552.301(e). Nonetheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. See *id.* §§ 552.007, .302, .352.

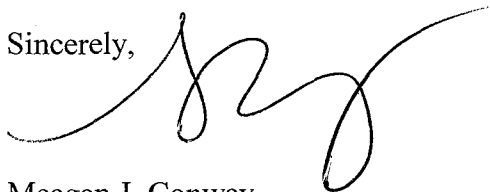
embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation, Id.* at 683. A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (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 county to compile unspecified law enforcement records concerning the named individual. We find this request for unspecified law enforcement records implicates the named individual's rights to privacy. Therefore, to the extent the county maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the county must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

You also ask this office to issue a previous determination that would permit the county to withhold dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/mo

Ref: ID# 757512

Enc. Submitted documents

c: Requestor
(w/o enclosures)