



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

June 3, 2019

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76209

OR2019-14552

Dear Ms. Miller:

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# 768214 (ORR# S001364-031319).

The Denton County Sheriff's Office (the "sheriff's office") received a request for information pertaining to two named individuals during a specified time at specified addresses.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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." Gov't Code § 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 and embarrassing by the

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<sup>1</sup>We note the sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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.

The present request requires the sheriff's office to compile unspecified law enforcement records concerning the named individuals. We find this request for unspecified law enforcement records implicates the named individuals' rights to privacy. Thus, to the extent the sheriff's office maintains 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 of the Government Code in conjunction with common-law privacy. However, information that refers to an individual solely as a victim, witness, or involved person is not a compilation of the individual's criminal history and may not be withheld under section 552.101 on that basis. We note you have submitted information that does not list the named individuals as suspects, arrestees, or criminal defendants. This information does not consist of a compilation of the named individuals' criminal history, and it may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, we will address the applicability of other exceptions to disclosure of this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the information you marked relates to closed cases that did not result in convictions or deferred adjudications. Therefore, we agree section 552.108(a)(2) is applicable to this information.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other things, a detailed description of the offense and an identification and description of the complainant, but does not include dates of birth, motor vehicle record information encompassed by section 552.130 of the Government Code, or the complainant's telephone

number or home address, unless the address is the location of the crime. *See* ORD 127 at 3-4. In this instance, you have marked the entire narrative portion of the incident reports at issue as information you seek to withhold under section 552.108. Exhibit D does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See id.* Accordingly, we determine the sheriff’s office must release a sufficient portion of the narrative to encompass a detailed description of the offense. Thus, with the exception of the basic information, which must be released, the sheriff’s office may withhold the information you marked under section 552.108(a)(2) of the Government Code.<sup>2</sup>

You seek to withhold some of the basic information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You indicate the sheriff’s office is part of an emergency communication district that is subject to section 772.318. The sheriff’s office states some of the information at issue consists of the originating addresses of 9-1-1 callers furnished to the sheriff’s office by a service supplier. Thus, the sheriff’s office must withhold the addresses of the 9-1-1 callers you indicated under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, we note section 772.318 does not apply to 9-1-1 callers’ names. Thus, the sheriff’s office may not withhold the 9-1-1 callers’ names you indicated under section 552.101 of the Government Code on this basis.

You argue some of the remaining basic information is protected under section 552.101 of the Government Code in conjunction with common-law privacy, which is subject to the two-part test discussed above. *Indus. Found.*, 540 S.W.2d at 685. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff’s office must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent the sheriff’s office maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff’s office must

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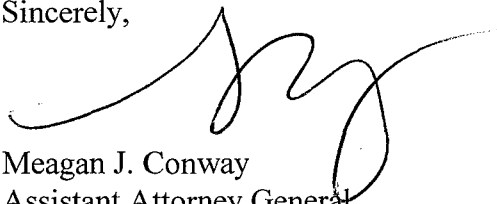
<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the basic information, which must be released, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code. In releasing the basic information, the sheriff's office must withhold (1) the addresses of the 9-1-1 callers you indicated under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code and (2) the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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](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# 768214

Enc. Submitted documents

c: Requestor  
(w/o enclosures)