



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 9, 2019

Ms. Joanna Lippman Salinas
Counsel for the Bureson County Sheriff's Office
Fletcher, Farley, Shipman & Salinas L. L. P.
2530 Walsh Tarlton Lane, Suite 150
Austin, Texas 78746

OR2019-22044

Dear Ms. Salinas:

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# 779257 (File No. TAC.24682).

The Bureson County Sheriff's Office (the "sheriff's office"), which you represent, received a request for thirteen categories of information pertaining to the sheriff's office and a named individual. You state you have released some of the requested information. You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.147 of the Government Code.¹ We have considered the exceptions you claim.

Initially, you state the sheriff's office is seeking clarification of a portion of the request for information. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified). We understand you have not received a response to the request for clarification. Thus, we find the sheriff's office is not required to release

¹We note although you raise sections 552.102 and 552.107 of the Government Code, you make no arguments to support these assertions. Therefore, we assume you have withdrawn your claim that these exceptions apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

information in response to the portion of the request for which the sheriff's office has sought but not received clarification. However, if the requestor clarifies or narrows the portion of the request for information for which the city sought clarification, the sheriff's office must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

Next, we note that you have failed to submit information in response to items eight and eleven of the request. To the extent any additional responsive information existed on the date the sheriff's office received this request, we assume you have released it. If you have not released any such records, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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. This section 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. 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) (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 present request seeks unspecified law enforcement records pertaining to a named individual. This request requires the sheriff's office to compile the named individual's criminal history and implicates the privacy of the named individual. Therefore, to the extent the sheriff's office maintains law enforcement records listing the named individual as a suspect, arrestee, or criminal defendant, the sheriff's office 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,

A handwritten signature in black ink, appearing to read "Ashley Crutchfield". The signature is written in a cursive style with a large, stylized initial "A".

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/jxd

Ref: ID# 779257

c: Requestor