



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 25, 2019

Mr. Adam Anderson
Assistant County Attorney
Montgomery County Attorney's Office
501 North Thompson Street, Suite 300
Conroe, Texas 77301

OR2019-30181

Dear Mr. Anderson:

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# 793306 (ORR# 19PIA333).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for all arrest and incarceration records related to a named individual. 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 note you have submitted information that is not responsive to the instant request because it does not relate to the arrest or incarceration of the named individual. This ruling does not address the public availability of the non-responsive information, and the sheriff's office need not release it in response to the request.¹

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

¹ As we are able to make this determination, we need not address your argument against disclosure of this information.

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 individual. We find this request for unspecified law enforcement records implicates the named individual's rights to privacy. Thus, to the extent the sheriff's office maintains law enforcement records depicting 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/be

Ref: ID# 793306

Enc. Submitted documents

c: Requestor
(w/o enclosures)