



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2020

Mr. Daniel W. Ray
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P.O. Box 1353
Greenville, Texas 75403-1353

OR2020-06875

Dear Mr. Ray:

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# 814669.

The Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received a request for information pertaining to a specified incident and all information pertaining to a named individual at a specified address during a specified time period. You indicate you released some information pertaining to the specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to the specified incident. To the extent any information responsive to the remaining portion of the request existed on the date the sheriff's office received the request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it 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 no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code

¹ Although the sheriff's office also cites section 552.103 of the Government Code in its brief, the sheriff's office has not provided any arguments to support this exception. Therefore, we assume the sheriff's office has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

§ 552.101. Section 552.101 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. The doctrine of common-law privacy protects a compilation of an individual's criminal history, which 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.

You assert the present request requires the sheriff's office to compile unspecified law enforcement records concerning a named individual. As noted above, however, you have only submitted information pertaining to the specified incident. We find this portion of the request does not require the sheriff's office to compile an individual's criminal history and does not implicate the privacy interests of any individual. Upon review, we find the sheriff's office may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy. The sheriff's office must release the submitted 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 <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,



Meagan Hunter
Assistant Attorney General
Open Records Division

MH/gw

Mr. Daniel W. Ray - Page 3

Ref: ID# 814669

Enc. Submitted documents

c: Requestor
(w/o enclosures)