



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 11, 2022

Ms. Jodie G. McGuire  
Records Clerk  
Hood County Sheriff's Office  
400 Deputy Larry Miller Drive  
Granbury, Texas 76048

OR2022-07440

Dear Ms. McGuire:

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# 934636 (Ref. No. 21-01442).

The Hood County Sheriff's Office (the "sheriff's office") received a request for all reports related to a named individual, including two specified incidents. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted any information for one of the two incidents specified by the requestor. Thus, to the extent such information existed and was maintained by the sheriff's office on the date the sheriff's office received the request for information, we presume the sheriff's office has released it. If not, the sheriff's office must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the 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. 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 or 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. 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request, in part, requires the sheriff's office to compile unspecified law enforcement records concerning the individual named in the request, thus implicating the named individual's right to privacy. Therefore, 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 any such information under section 552.101 in conjunction with common-law privacy. However, the requestor also seeks information pertaining to specified incidents; thus, 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 the named individual. You have submitted information pertaining to one of the specified incidents. This information is not part of a criminal history compilation protected by common-law privacy and may not be withheld under section 552.101 on that basis. Therefore, we will address your arguments against the disclosure of this information.

The information at issue includes public citizens' dates of birth. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). However, the requestor has a special right of access to her own date of birth that would ordinarily be withheld to protect her privacy interests and it may not be withheld on the basis of common-law privacy. *See Gov't Code* § 552.023(a)-(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with exception of the requestor's date of birth, the sheriff's office must withhold the dates of birth of public citizens under section 552.101 in conjunction with common-law privacy.

We note portions of the information at issue are subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

from public release. Gov't Code § 552.130(a). Accordingly, the sheriff's office must withhold the information we marked under section 552.130.

In summary, to the extent the sheriff's office maintains unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff's office must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. With exception of the requestor's date of birth, the sheriff's office must withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the information we marked under section 552.130 of the Government Code. The sheriff's office must release the remaining information.<sup>2</sup>

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,

Chase D. Young  
Assistant Attorney General  
Open Records Division

CDY/be

Ref: ID# 934636

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup> We note the requestor has a right of access beyond that of the general public to some of the information being released. See Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, if the sheriff's office receives another request for this information from an individual other than this requestor, the sheriff's office must again seek a ruling from this office. Additionally, we note the remaining information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). The requestor has a right, however, to her own social security number. See generally *id.* § 552.023(b).