



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 28, 2022

Mr. Matthew Entsminger  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2022-08900

Dear Mr. Entsminger:

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# 938078.

The Travis County Attorney's Office (the "county attorney's office") received a request for information pertaining 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.

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. 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. U.S. 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, in part, requires the county attorney'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 right to privacy. Therefore, to the extent the county attorney's office maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the county attorney's office must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, the requestor also asks for information pertaining to specified incidents. Because the requestor specifically asks for this information, it is not part of a compilation of the individual's criminal history. Thus, this information is not confidential under common-law privacy, and the county attorney's office may not withhold it under section 552.101 on that ground.

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 at issue pertains to criminal cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

However, 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). Thus, with the exception of the basic information, the county attorney's office may withhold the information you have indicated under section 552.108(a)(2) of the Government Code.

In summary, to the extent the county attorney's office maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the county attorney's office must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the basic information, the county attorney's office may withhold the information you have indicated under section 552.108(a)(2) of the Government Code.

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,

Paige Lay  
Assistant Attorney General  
Open Records Division

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Ref: ID# 938078

Enc. Submitted documents

c: Requestor  
(w/o enclosures)