



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 19, 2009

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2009-02199

Dear Ms. Lentz:

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# 335323.

The Williamson County Sheriff's Office (the "sheriff") received a request for information relating to two named individuals and a specified address. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requestor agreed to exclude from his request driver's license information, motor vehicle numbers, and social security numbers. Thus, any driver's license information, motor vehicle numbers, or social security numbers within the submitted documents are not responsive to the present request for information and the sheriff need not release this information to the requestor in response to his request. 552.101 of the Government Code excepts from disclosure "information considered to be confidential by

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person and (2) is 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 demonstrated. *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 that a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public.

The present request requires the sheriff to compile unspecified law enforcement records concerning the two named individuals. We find that this request for unspecified law enforcement records implicates the named individuals’ right to privacy. To the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold any such information under section 552.101 in conjunction with common-law privacy.

However, you have submitted information that does not relate to the named individuals as suspects, arrestees, or criminal defendants. Because this information is not part of a compilation of an individual’s criminal history, the sheriff may not withhold it in its entirety under section 552.101 on that basis. You claim portions of this information are excepted from disclosure under common-law privacy. Common-law privacy also encompasses the specific types of information that are held to be intimate or embarrassing in *Industrial Foundation*. See 540 S.W.2d at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). Upon review, we agree that some of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, we have marked portions of the submitted information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information constitutes information that is highly intimate or embarrassing or not of legitimate public interest. Therefore, none of the remaining information may be withheld on the basis of common-law privacy.

Section 552.101 of the Government Code also encompasses section 550.065(b) of the Transportation Code. The remaining information includes a CRB-3 accident report form that was completed pursuant to chapter 550 of the Transportation Code. See Transp. Code § 550.064 (officer’s accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) accident reports are privileged and confidential.

*Id.* § 550.065(b). Section 550.065(c)(4) of the Transportation Code provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* Here, the requestor has not provided the sheriff with two of the required pieces of information. Thus, you must withhold the accident report, which we have marked, in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. You claim that the information you have marked in Exhibit B is excepted from disclosure pursuant to section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007. Section 51.02(2)(A) defines “child” as a person who is ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Upon review, we agree that the information you have marked involves juvenile delinquent conduct occurring after September 1, 1997. *See id.* §§ 51.03(a) (defining “juvenile delinquent conduct” for the purposes of section 58.007). It does not appear that any of the exceptions in section 58.007 apply. Accordingly, we conclude the information you have marked is confidential pursuant

to section 58.007 of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>2</sup>

Section 552.108(a)(2) 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 that the information at issue relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. In this instance, you state that the incident report you have marked in Exhibit B pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we conclude that section 552.108(a)(2) is applicable to the report you have marked.

We note, however, that 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), and includes a detailed description of the offense. With the exception of basic information, the sheriff may withhold the incident report you have marked under section 552.108(a)(2).

In summary, to the extent the sheriff maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the sheriff must withhold any such information under section 552.101 in conjunction with common-law privacy. We have also marked portions of the remaining information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Next, the sheriff must withhold the CRB-3 accident report, which we have marked, under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code. The information you have marked is confidential pursuant to section 58.007 of the Family Code and must be withheld under section 552.101 of the Government Code. Finally, with the exception of basic information, the sheriff may withhold the incident report you have marked under section 552.108(a)(2). The remaining information must be released.

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.

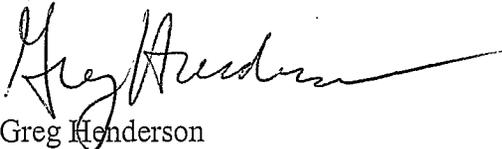
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

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<sup>2</sup>As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Henderson", with a long horizontal flourish extending to the right.

Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/cc

Ref: ID#335323

Enc. Submitted documents

c: Requestor  
(w/o enclosures)