



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2010

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

OR2010-11232

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# 388268.

The Williamson County Sheriff's Office (the "sheriff") received a request for all files related to the rejection of the requestor's application to the sheriff's corrections division. You claim portions of the requested information are excepted from disclosure under sections 552.101 and 552.137 of the Government Code. You also indicate the request for information implicates the law enforcement interests of the Austin Police Department (the "department") and notified the department of its right to submit arguments to this office as to why portions of the requested information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the department. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the requestor has excluded from his request social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers. Therefore, any such information in the submitted information is not responsive to the instant request. The sheriff need not release non-responsive information in response to the request, and this ruling will not address that 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." *Id.*

§ 552.101. This exception encompasses information other statutes make confidential, such as chapter 411 of the Government Code. Chapter 411 deems confidential criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may only release CHRI to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we determine the sheriff must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. However, the remaining information the sheriff has marked does not consist of CHRI for purposes of chapter 411, and the sheriff may not withhold it under section 552.101 on that basis.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). We note that this exception is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The sheriff claims the marked e-mail addresses are excepted from disclosure under section 552.137. In this instance, however, some of the marked e-mail addresses are government or institutional e-mail addresses that are not excepted from disclosure under section 552.137. Thus, these e-mail addresses, which we have marked for release, may not be withheld under section 552.137 of the Government Code. The remaining e-mail addresses you have marked are not specifically excluded by section 552.137(c). Therefore, with the exception of the e-mail addresses we have marked for release, the sheriff must withhold the remaining marked e-mail addresses under

section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their public disclosure.<sup>1</sup>

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime.” *Id.* § 552.108. A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. In this instance, although the sheriff does not claim section 552.108, we have received correspondence from the department stating that incident report number 2009-2081196 relates to a pending criminal investigation. Based upon the department’s representation and our review, we conclude that the release of incident report number 2009-2081196 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g 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) (court delineates law enforcement interests that are present in active cases). Accordingly, the sheriff may withhold incident report number 2009-2081196 under section 552.108(a)(1) of the Government Code.

In summary, the sheriff must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. With the exception of the e-mail addresses we have marked for release, the sheriff must withhold the remaining marked e-mail addresses under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their public disclosure. The sheriff may withhold incident report number 2009-2081196 under section 552.108(a)(1) of the Government Code. The remaining information must be released to the requestor.<sup>2</sup>

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<sup>1</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>We note the information being released contains confidential information to which the requestor has a right of access. *See Gov’t Code § 552.023* (person has special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect person’s privacy interests). Thus, if the sheriff receives another request for this particular information from a different requestor, then the sheriff should again seek a decision from this office.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/em

Ref: ID# 388268

Enc. Submitted documents

c: Requestor  
(w/o enclosures)