



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2010

Ms. Tamma Willis  
McLennan County Sheriff's Office  
901 Washington Avenue  
Waco, Texas 76701

OR2010-16366

Dear Ms. Willis:

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# 398352.

The McLennan County Sheriff's Office (the "sheriff") received a request for all booking cards for two named individuals, including information regarding a specified incident. You state you have released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 common-law right of privacy, which protects information if it (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). This office has found that 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). Moreover, we find that 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 to compile unspecified law enforcement records concerning the named individuals and thus implicates these individuals' right to privacy. We find this request for unspecified law enforcement records implicates the named individuals' right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting either named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 in conjunction with common-law privacy.

We note you have submitted information pertaining to the incident specified in the request. This information does not implicate the privacy interests of the named individuals and, thus, may not be withheld as a compilation of the individuals' criminal histories on the basis of common-law privacy. Accordingly, we will consider whether any of this information must be withheld under section 552.101.

Section 552.101 of the Government Code also encompasses information other statutes make confidential, including chapter 560 of the Government Code, which governs the public availability of fingerprints. Section 560.003 of the Government Code provides that "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." Gov't Code §§ 560.003; .001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry), .002 (governmental body may not sell, lease, or otherwise disclose individual's biometric identifier to another person unless individual consents to disclosure). Thus, the sheriff must withhold the fingerprints we have marked under section 552.101 in conjunction with section 560.003.

In summary, to the extent the sheriff maintains law enforcement records depicting either named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must withhold the fingerprints we marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. 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, 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,

A handwritten signature in cursive script, appearing to read "Andrea L. Caldwell".

Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 398352

Enc. Submitted documents

c: Requestor  
(w/o enclosures)