



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2011

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

OR2011-11016

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# 425567.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to a named individual during a specified period of time. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor excludes social security numbers and Texas driver's license, license plate, and vehicle identification numbers from the scope of the request. Accordingly, these types of information are not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff is not required to release that information in response to the request.

Next, we note, and you acknowledge, the submitted documents include a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064. 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. This section encompasses information protected by other statutes, including section 550.065 of the Transportation Code. Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release

of the accident report to a person who provides two or more of the following three pieces of information: (1) date of the accident; (2) specific location of the accident; and (3) name of any person involved in the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has not provided two of the three items of information specified by section 550.065(c)(4). Therefore, the sheriff must withhold the submitted accident report form, which we have marked, pursuant to section 550.065(b) of the Transportation Code. We note the remaining information you have marked does not consist of an accident report completed pursuant to chapter 550 of the Transportation Code and may not be withheld on this basis.

Section 552.101 also encompasses the doctrine of common-law 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *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) (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). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We agree the present request requires the sheriff to compile unspecified criminal history records concerning the individual named in the request and implicates that individual's right to privacy. Therefore, to the extent the sheriff maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold any such information in its entirety under section 552.101 in conjunction with common-law privacy. We note you have submitted information that does not involve the named individual as a suspect, arrestee, or criminal defendant. This information may not be withheld as a compilation of the individual's criminal history on the basis of common-law privacy. However, we will address your remaining arguments against disclosure of this information.

We note common-law privacy also protects other types of information. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See* 540 S.W. at 683. In addition, this office has found that some kinds of medical information or information indicating disabilities or specific illnesses to be excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law

privacy. However, you have failed to demonstrate how any of the remaining information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, none of the remaining information you have marked is confidential under section 552.101 in conjunction with common-law privacy, and it may not be withheld on that basis.

Next, you claim the report you have marked in Exhibit B is excepted from disclosure under section 552.108(a)(2) of the Government Code. 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You assert the report at issue pertains to a closed investigation that did not result in conviction or deferred adjudication. Accordingly, we agree section 552.108(a)(2) is applicable to this report.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov't Code § 552.108(c). Section 552.108(c) refers to the basic 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* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, except for basic information, the sheriff may withhold the information you have marked in Exhibit B under section 552.108(a)(2) of the Government Code.

In summary, the sheriff must withhold the marked accident report form pursuant to section 550.065(b) of the Transportation Code. To the extent the sheriff maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the sheriff must withhold any such information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for basic information, the sheriff may withhold the information you have marked in Exhibit B under section 552.108(a)(2) of the Government Code. The sheriff must release the remaining responsive information.<sup>1</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.

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<sup>1</sup>We note that this requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov't Code § 552.023(a). Therefore, if the sheriff receives another request for this information from a person who does not have a special right of access to this information, the sheriff should resubmit this same information and request another decision from this office. *See id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/tf

Ref: ID# 425567

Enc. Submitted documents

c: Requestor  
(w/o enclosures)