



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2011

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

OR2011-13278

Dear Ms. Rakhar:

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# 430717.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified investigation. You claim the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor has specifically excluded from his request social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers. Thus, these types of information in the submitted documents are not responsive to the request. This decision does not address the public availability of the non-responsive information and the sheriff is not required to release that information in response to the request for 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." This section encompasses the doctrine of common-law privacy. Common-law privacy 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). The type 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. *Id.* at 683. This office has found

some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *E.g., see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You argue the submitted information must be withheld in its entirety on the basis of common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the submitted information must be withheld on the basis of common-law privacy. Nevertheless, we find some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public; therefore, the sheriff must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy. Upon review, however, we conclude the remaining information is not confidential under common-law privacy, and the sheriff may not withhold it under section 552.101 on that ground.

Section 552.101 also encompasses information protected by other statutes. Chapter 560 of the Government Code provides a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov't Code §§ 560.001 (defining "biometric identifier" to include fingerprints), 560.002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), 560.003 (biometric identifiers in possession of governmental body exempt from disclosure under the Act). You do not inform us, and the submitted information does not indicate, section 560.002 permits the disclosure of the submitted fingerprint information. Therefore, the sheriff must withhold this information, which we have marked, under section 552.101 in conjunction with section 560.003 of the Government Code. The remaining documents do not contain fingerprints; therefore, the sheriff may not withhold any of the remaining information under section 552.101 in conjunction with section 560.003.

Section 552.101 of the Government Code also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See* Gov't Code § 411.089(b)(1). The submitted information contains Federal Bureau of Investigation ("FBI") number that constitutes CHRI generated by the FBI; therefore, the sheriff must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

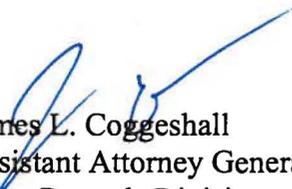
Finally, you assert some of the remaining information is excepted under section 552.136 of the Government Code. Section 552.136(b) provides that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” The sheriff must withhold the account numbers we have marked under section 552.136. The remaining information does not contain account numbers. Therefore, the sheriff may not withhold the remaining information under section 552.136.

We conclude the following: (1) the submitted social security numbers, Texas driver’s license numbers, Texas license plate numbers, and vehicle identification numbers are not responsive and need not be released pursuant to this request; (2) the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and sections 411.083 and 560.003 of the Government Code; (3) the sheriff must withhold the information we have marked under section 552.136 of the Government Code; and (4) the sheriff must release the remaining information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 430717

Enc. Submitted documents

c: Requestor  
(w/o enclosures)