



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 14, 2009

Ms. Patricia Fleming  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2009-00595

Dear Ms. Fleming:

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# 332223.

The Texas Department of Criminal Justice (the "department") received a request for "the amount of money in each of the trust funds of every inmate on death row." You claim that the requested 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.<sup>1</sup>

You contend that the submitted information is protected from disclosure under common-law privacy. 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 doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of this test must be established. *Id.* at 681-82. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate and embarrassing. *See*

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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.

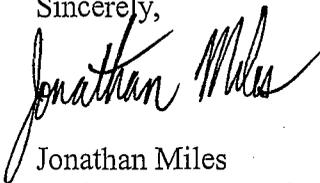
Open Records Decision Nos. 600 (1992), 545 (1990). In Open Records Decision No. 396, we considered whether certain types of information pertaining to inmate trust accounts were protected by common-law privacy. *See* Open Records Decision No. 396 (1983). We found that information regarding balances held in inmate accounts is highly intimate or embarrassing. *Id.* at 1. Furthermore, we concluded that there is not a legitimate public interest in inmate account balances because "the total amount an inmate has on deposit at any particular time[] does not . . . relate to the receipt or expenditure of public funds." *Id.* at 1. Accordingly, we determined that information regarding inmate account balances is protected under common-law privacy. *Id.* at 1. Thus, in accordance with the decision in Open Records Decision No. 396, we find the information pertaining to the inmates' account balances in the submitted information are protected by common-law privacy. We have marked this information, which the department must withhold under section 552.101 of the Government Code. You have not explained, however, how the remaining submitted information, which includes inmates' names and identification numbers, constitutes information determined to be protected by common-law privacy in Open Records Decision No. 396. Furthermore, you have failed to demonstrate how the remaining information constitutes highly intimate or embarrassing information. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, the department must withhold the information we have marked in the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. 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 at (512) 475-2497.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 332223

Enc. Submitted documents

c: Requestor  
(w/o enclosures)