



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 24, 2009

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2009-03787

Dear Ms. Rangel:

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# 338220.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all records pertaining to case number 08-32293. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor agreed to exclude from his request social security numbers and driver's license numbers of any third parties. Thus, any social security numbers or driver's license numbers of third parties within the submitted information are not responsive to the present request for information and the sheriff need not release this information to the requestor in response to his request.

Next, we note the submitted information contains a CR-3 report that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person

who provides the agency with two or more pieces of information specified by the statute. *Id.* Here, the requestor has not provided the sheriff with two of the required pieces of information. Thus, the sheriff must withhold the marked CR-3 accident report from the requestor under section 550.065(b) of the Transportation Code. We note, should the requestor provide the sheriff with requisite information pursuant to section 550.065(c)(4), the sheriff must release the submitted accident form in its entirety.¹

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, such as section 261.201(a) of the Family Code, which provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert the submitted information is subject to chapter 261 of the Family Code and state “a referral was made to Child Protective Services.” However, the submitted information pertains to a child custody issue between adults and an investigation into a car accident. You do not explain, nor do the documents reflect, the sheriff used or developed this information in an investigation under chapter 261. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Thus, you have failed to demonstrate the submitted information is confidential under section 261.201 of the Family Code and the sheriff may not withhold it under section 552.101 of the Government Code on that basis.

¹Although you contend some information in this report is also excepted from disclosure under section 552.130 of the Government Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor).

We note some of the remaining information is subject to section 552.101 of the Government Code in conjunction with common-law privacy.² 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate and embarrassing. *See* Open Records Decision No. 545 (1990). Therefore, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. We note the requestor has a right of access to his own privacy information. Gov't Code § 552.023 (person has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from a different requestor, the sheriff must again seek a ruling from this office.

Section 552.130 of the Government Code excepts from disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or a Texas motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1), (2). Accordingly, the sheriff must withhold the Texas driver's license information and Texas motor vehicle record information we marked as well as the Texas license plate number contained in the submitted 9-1-1 audio recordings under section 552.130. We note the requestor has a special right of access to his Texas motor vehicle record information being released in this instance. *See id.* § 552.023.

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). The e-mail addresses in the remaining information are not specifically excluded by section 552.137(c). The sheriff must withhold these e-mail addresses, which we have marked, under section 552.137, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the sheriff must withhold the CR-3 accident report form we have marked under section 550.065(b) of the Transportation Code. The sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). We note the requestor has a right of access to his own privacy information. *See* Gov't Code § 552.023.

sheriff must withhold the Texas driver's license information and Texas motor vehicle record information we have marked and the Texas license plate number contained in the submitted 9-1-1 audio recordings under section 552.130 of the Government Code. The sheriff must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. 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, 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,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/eeg

Ref: ID# 338220

Enc. Submitted documents

c: Requestor
(w/o enclosures)