



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 21, 2011

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

OR2011-05564

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# 415189.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to 9-1-1 calls made from a specified location for a specified time period. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor excluded Texas driver's license numbers, Texas license plate numbers, vehicle identification numbers, and social security numbers from his request. Therefore, those types of information are not responsive to the present request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff need not release such information.

Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal

investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that the four submitted reports pertain to criminal investigations that concluded in results other than convictions or deferred adjudications. Thus, we agree that section 552.108(a)(2) is applicable to the responsive information.

We note, 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). Basic information refers to the 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). Thus, with the exception of the basic front page offense and arrest information, the sheriff may withhold the submitted reports from disclosure based on section 552.108(a)(2).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. 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate and 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 that some kinds of medical information or information indicating disabilities or specific illnesses are 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). Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). Upon review, we find that most of the remaining responsive information you have marked, and the additional information we have marked, is highly intimate or embarrassing and not of legitimate public concern. However, we find you have failed to demonstrate some of the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Accordingly, with

¹As our ruling is dispositive, we need not address your remaining arguments for this information. Although you have marked a Texas driver's license type, we note that basic information described in *Houston Chronicle* does not include information subject to section 552.130. *See Houston Chronicle*, 531 S.W.2d 177; *see also* Gov't Code § 552.130 (excepting from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency).

the exception of the information we have marked for release, the sheriff must withhold the information you have marked and the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, with the exception of basic information, the sheriff may withhold the submitted reports under section 552.108(a)(2) of the Government Code. In releasing basic, with the exception of the information we have marked for release, the sheriff must withhold the information you have marked and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must release the remaining responsive 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, 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 415189

Enc. Submitted documents

c: Requestor
(w/o enclosures)