



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 3, 2011

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

OR2011-06028

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# 414828.

The Williamson County Sheriff's Office (the "sheriff") received a request for arrest and transfer information relating to a specified sheriff's office number and a named individual. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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 exception encompasses information other statutes make confidential. Section 560.003 of the Government Code provides "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." *Id.* § 560.003; *see id.* § 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry). Section 560.002 provides "[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]" *Id.* § 560.002(1)(A). Thus, section 560.003 protects privacy. In this instance, the requestor is a law firm that may represent the individual whose fingerprint and palmprints are at issue. If the requestor represents the individual concerned, then the fingerprint and palmprints we have marked must be released to the requestor pursuant to section 560.002(1)(A) of the Government Code. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning

himself). If the requestor does not represent the individual, then the sheriff must withhold his marked fingerprint and palmprints under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code.

Criminal history record information ("CHRI") obtained from the National Crime Information Center (the "NCIC") or the Texas Crime Information Center (the "TCIC") is confidential under federal and state law. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." Gov't Code § 411.082(2). Federal law governs the dissemination of CHRI obtained from the NCIC network. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.") and (c)(2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* Open Records Decision No. 565 at 10-12 (1990); *see generally* Gov't Code ch. 411 subch. F. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b). We note section 411.081(b) of the Government Code allows a criminal justice agency to disclose to the public CHRI "that is related to the offense for which a person is involved in the criminal justice system." *Id.* § 411.081(b). We have marked CHRI the sheriff must withhold under section 552.101 of the Government Code in conjunction with the federal law and subchapter F of chapter 411 of the Government Code. Although you have marked other information the sheriff seeks to withhold on this basis, we find the information in question does not constitute CHRI. We therefore conclude the sheriff may not withhold the information you have marked under section 552.101 on the basis of the federal law or subchapter F of chapter 411 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See id.* § 552.130(a)(1). You have marked the information the sheriff seeks to withhold under this exception; We find some of the information you have marked does not fall within the scope of section 552.130. We have marked that information, which the sheriff must release. We also note section 552.130 protects privacy. Thus, if the requestor represents the individual whose Texas driver's license information is at issue, then the rest of the information you have marked under section 552.130 must be released pursuant to section 552.023 of the Government Code. *See id.* § 552.023; ORD 481 at 4.<sup>1</sup> If the requestor

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<sup>1</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy

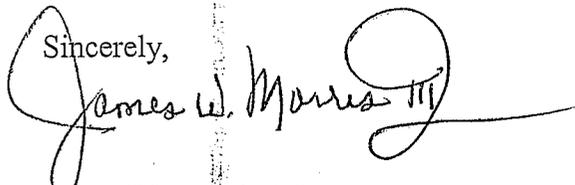
does not represent the individual concerned, then the sheriff must withhold the remaining information you have marked and the additional Texas driver's license information we have marked under section 552.130 of the Government Code.

In summary: (1) the sheriff must withhold the fingerprint and palmprints we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code, unless the requestor has a right of access to the information under section 560.002(1)(A) of the Government Code; (2) the sheriff must withhold the CHRI we have marked under section 552.101 in conjunction with federal law and subchapter F of chapter 411 of the Government Code; and (3) except for the information we have marked for release, the sheriff must withhold the information you have marked under section 552.130 of the Government Code, along with the additional Texas driver's license information we have marked, unless the requestor has a right of access to the information under section 552.023 of the Government Code.<sup>2</sup> The sheriff must release the rest of the submitted 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 W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

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interests." Gov't Code § 552.023(a).

<sup>2</sup>We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a fingerprint under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code and a Texas driver's license number under section 552.130 of the Government Code.

Ref: ID# 414828

Enc: Submitted documents

c: Requestor  
(w/o enclosures)