



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2014

Ms. Andrea D. Russell  
Taylor Olson Adkins Stralla Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2014-01575

Dear Ms. Russell:

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# 512067.

The City of Euless (the "city"), which you represent, received two requests for records related to the 1998 arrest of a named individual. You claim the submitted information is exempted from disclosure under section 552.101 of the Government Code. You state the city will withhold a living person's social security number, which you have highlighted in the submitted documents.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts "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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the

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<sup>1</sup>Section 552.147 of the Government Code provides "[t]he social security number of a living person is exempted from" required public disclosure under the Act. Gov't Code § 552.147. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147.

Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, in which 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. In this instance, although you assert the submitted information is confidential in its entirety pursuant to common-law privacy, we find this is not a situation in which all of this information must be withheld to protect any individual's privacy interests. However, upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, you assert portions of the submitted information constitute criminal history record information ("CHRI") made confidential under chapter 411 of the Government Code and excepted from disclosure under section 552.101. Section 552.101 also excepts from disclosure information made confidential by statute. Gov't Code § 552.101. CHRI generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. 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 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083.

Sections 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 a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. However, section 411.083 does not apply to active warrant information or other information relating to one's current involvement with the criminal justice system. *See id.* § 411.081(b) (stating subchapter 411 does not prohibit criminal justice agency from disclosing to public CHRI related to offense for which person is involved in criminal justice system). In addition, CHRI does not include driving record information. *Id.* § 411.082(2)(B).

Upon review, we find the information at issue does not consist of CHRI for purposes of chapter 411 of the Government Code and is therefore not confidential under section 411.083. Consequently, the city may not withhold the information from disclosure based on section 552.101.

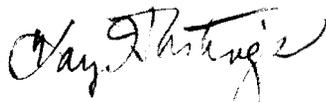
You state the city will withhold highlighted information in the submitted documents based on section 552.130 of the Government Code.<sup>2</sup> The submitted documents include additional motor vehicle record information the city has not highlighted. Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle operators' license or driver's license, motor vehicle title, or registration issued by an agency of this state or another state. Gov't Code § 552.130(a)(1)-(2). We find the city must withhold the information we marked based on section 552.130.

In summary, the city must withhold the information we marked based on section 552.101 in conjunction with common-law privacy and the information we marked based on section 552.130. The city 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/sdk

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<sup>2</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

Ref: ID# 512067

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)