



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2017

Mr. Pink Dickens
Assistant Criminal District Attorney
Victoria County Criminal District Attorney's Office
205 North Bridge, Suite 301
Victoria, Texas 77901-8085

OR2017-22704

Dear Mr. Dickens:

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# 684692.

The Victoria County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified arrest. You claim 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 submitted information.

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 laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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 at 7 (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 the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter E-1 and 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. Similarly, 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. *See id.* § 411.082(2)(B) (term CHRI does not include driving record information). Accordingly, the sheriff's office must withhold the CHRI we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. However, none of the remaining information consists of CHRI for purposes of chapter 411, and may not be withheld on that basis.

Section 552.101 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Thus, the sheriff's office must withhold the public citizen's date of birth, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office has failed to demonstrate, however, the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the department may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). We note a state identification number is not motor vehicle record information and may not be withheld under section 552.130 of the Government Code. Upon review, we find the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information you have marked is not subject to section 552.130 and may not be withheld on that basis.

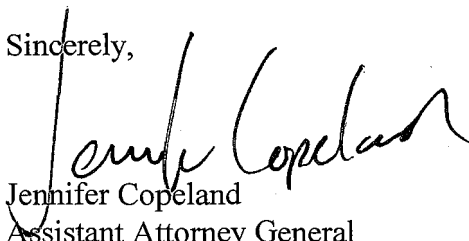
We note some of the remaining information is subject to section 552.147 of the Government Code.¹ Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.² *Id.* § 552.147(a). Accordingly, the sheriff’s office may withhold the social security number we have marked under section 552.147 of the Government Code.

In summary, the sheriff’s office must withhold the CHRI we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The sheriff’s office must withhold the public citizen’s date of birth, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff’s office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The sheriff’s office may withhold the social security number we have marked under section 552.147 of the Government Code. 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.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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note 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. Gov’t Code § 552.147(b).

Ref: ID# 684692

Enc. Submitted documents

c: Requestor
(w/o enclosures)