



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2009

Ms. Tamma Willis
McLennan County Sheriff's Office
219 North 6th Street
Waco, Texas 76701

OR2009-01896

Dear Ms. Willis:

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# 334725.

The McLennan County Sheriff's Office (the "sheriff") received a request for a specified incident report. You claim that portions of the requested information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 the doctrine of common-law privacy. 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). 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). Because "the right of privacy is purely personal," that right "terminates upon the death of the person whose privacy is invaded." *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); Open Records Decision No. 272 at 1 (1981).

Upon review, we find that the information we have marked is generally highly intimate or embarrassing and not of legitimate public concern. However, we note that in this instance it is unclear whether the listed victim is deceased. Therefore, we must rule conditionally as to the marked information pertaining to the victim. Accordingly, if the listed victim is living, the sheriff must withhold the marked information pertaining to the victim under section 552.101 of the Government Code in conjunction with common-law privacy. If the listed victim is deceased, the sheriff may not withhold this information under section 552.101 on the basis of common-law privacy. The remaining information we have marked pertains to an individual other than the victim and must be withheld under section 552.101 in conjunction with common-law privacy.

We note that a portion of the remaining information is subject to section 552.136 of the Government Code.¹ Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. Accordingly, we find that the sheriff must withhold the account number we have marked under section 552.136 of the Government Code.

In summary, if the listed victim is living, the sheriff must withhold the marked information pertaining to him under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must withhold the remaining information we have marked, which pertains to an individual other than the victim, under section 552.101 in conjunction with common-law privacy. The sheriff must also withhold the account number we have marked under section 552.136 of the Government Code. The remaining information must be released.²

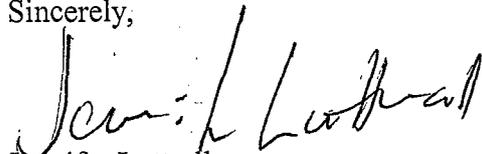
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹The 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).

²We note that the submitted information contains social security numbers. 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.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 334725

Enc. Submitted documents

c: Requestor
(w/o enclosures)