



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 3, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd floor
Fort Worth, Texas 76102

OR2009-02775

Dear Mr. Patrick Phillips:

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# 336736 (FWPD Nos. 1112-09 and 1187-09).

The Fort Worth Police Department (the "department") received two requests for all information pertaining to a specific accident. You state that the department has released a portion of the requested information. You also state that the department has redacted social security numbers pursuant to section 552.147 of the Government Code. *See* Gov't Code § 552.147(b) (governmental body may redact social security number without necessity of requesting decision from this office under the Act). You claim that portions of the submitted information are excepted from disclosure under sections 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), such accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, a governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In this instance, both requestors have provided the department with the required pieces of information. Thus, the department must release the CR-3 accident report form in its entirety under section 550.065 of the Transportation Code.

We also note that the submitted information contains a description of the medical condition of an individual involved in the accident. 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, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 demonstrated. *Id.* at 681-82. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses is protected by 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). Upon review, we conclude that the department must withhold the medical information that we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

The department has redacted certain Texas-issued motor vehicle record information relating to living individuals pursuant to the previous determinations issued in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (previous determinations). You seek to withhold additional motor vehicle record information, which you state lies beyond the scope of the previous determinations. Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license [or] motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). The information you have marked is confidential under section 552.130 of the Government Code and must be withheld. We have marked additional information that is subject to section 552.130 of the Government Code and must be withheld.

Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding 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. The insurance policy number that you have marked in the submitted documents must be withheld under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137 (a)-(c). The e-mail address you have marked is not of a type specifically excluded by section 552.137(c). Accordingly, the department must withhold this e-mail address pursuant to section 552.137 of the Government Code, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137(b)

In summary, the department must release the CR-3 accident report form under section 550.065 of the Transportation Code. The department must withhold the marked medical information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the marked motor vehicle record information pursuant to section 552.130 of the Government Code. The department must withhold the marked insurance policy number pursuant to section 552.136 of the Government Code. The department must withhold the marked e-mail address pursuant to section 552.137 of the Government Code unless the department receives consent for its release. The remaining submitted 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.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,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/sdk

Ref: ID# 336736

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)