



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 24, 2009

Ms. Natasha Brooks  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2009-16714

Dear Ms. Brooks:

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# 362623.

The Midland Police Department (the "department") received two requests for information pertaining to a specified incident. 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 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, which 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 types 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. In addition, 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 some of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find that no portion of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Therefore, no portion of the remaining information at issue may be withheld on the basis of common-law privacy.

Next, you claim some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]" Gov't Code § 552.130(a)(1). However, because this exception protects personal privacy, the second requestor has a right of access to his own Texas driver's license information pursuant to section 552.023 of the Government Code.<sup>1</sup> *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the marked Texas driver's license number may not be withheld from the second requestor under section 552.130. The department must withhold the Texas driver's license number we have marked from the first requestor pursuant to 552.130 of the Government Code.

In summary, the department must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the Texas driver's license number we have marked from the first requestor pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestors.<sup>2</sup>

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,

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<sup>1</sup>Section 552.023(a) provides 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 interests." Gov't Code § 552.023(a).

<sup>2</sup>We note that the submitted information contains a social security number that does not belong to either requestor. 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.

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,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 362623

Enc. Submitted documents

cc: Requestors (2)  
(w/o enclosures)