



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 16, 2010

Ms. Amy L. Sims
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2010-08809

Dear Ms. Sims:

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# 382916.

The Lubbock Police Department (the "department") received a request for a specified police report. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.¹ 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 common-law right of privacy, which protects information if it (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 or 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

¹We note that although you raise section 552.108 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information.

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). We note, however, the common-law right to privacy is a personal right that lapses at death, and therefore it does not encompass information that relates to a deceased individual. *See Moore v. Charles B. Pierce Film Enterprises Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976). Upon review, we find that the submitted information pertains to a deceased person; therefore, no portion of the submitted information is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, the department may not withhold any of the submitted information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). We note that the purpose of section 552.130 is to protect the privacy interests of individuals. As previously noted, because the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. *See Moore*, 589 S.W.2d at 491; *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). The department may not withhold the deceased individual's Texas driver's license number under section 552.130 of the Government Code. Further, we note the submitted information contains the requestor's driver's license number. The requestor has a right of access under section 552.023 of the Government Code to Texas motor vehicle information relating to herself. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the department may not withhold the requestor's driver's license number under section 552.130. However, the department must withhold the remaining living individuals' Texas driver's license numbers, which we have marked, under section 552.130.²

You raise section 552.147 of the Government Code for portions of the remaining information. Section 552.147 provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a).

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130, without the necessity of requesting an attorney general decision.

Accordingly, the department may withhold social security numbers from the remaining information under section 552.147 of the Government Code.³

In summary, the department must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code. The department may withhold social security numbers in the remaining information 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.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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 382916

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³Section 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. See Gov't Code § 552.147(b).