



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 15, 2010

Ms. Heather Stebbins  
Assistant City Attorney  
City of Kerrville  
800 Junction Highway  
Kerrville, Texas 78028-2215

ATTORNEY GENERAL OF TEXAS

OR2010-10527

Dear Ms. Stebbins:

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# 386947.

The Kerrville Police Department (the "department") received a request for copies of all offense reports pertaining to a named individual. You state you have released some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

Section 552.101 of the Government Code excepts from public 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 excepts from public disclosure private information about an individual if the information (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.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. Here, you seek to withhold the submitted information in its entirety. However, you have not demonstrated, nor does it appear, this is a situation where the information at issue must be withheld in its entirety on the basis of common-law privacy. We agree, however, portions of the submitted information, which we marked, are highly intimate or embarrassing and not of legitimate public concern. Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. You have not explained, nor can we discern, how the remaining submitted information is protected by common-law privacy. Consequently, the department may not withhold any of the remaining information under section 552.101 on that ground.

We note the remaining information contains Texas driver's license numbers. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license issued by a Texas agency is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(1). Thus, the department must withhold the driver's license numbers we marked under section 552.130.<sup>2</sup>

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the Texas driver's license numbers we marked under section 552.130 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](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

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<sup>1</sup>The 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).

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

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/dls

Ref: ID# 386947

Enc. Submitted documents

c: Requestor  
(w/o enclosures)