



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2011

Mr. Joe Torres, III  
Attorney at Law  
For City of Alice  
216 North Texas Boulevard, Suite 2  
Alice, Texas 78332

OR2011-01709

Dear Mr. Torres:

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# 407956.

The Alice Police Department (the "department"), which you represent, received a request for all records pertaining to a named individual's arrest in relation to a specified incident. You claim portions of the submitted incident report 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, 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). You contend a portion of the submitted incident report number 2007007041 is protected by common-law privacy. Upon review, we find the medical information we have marked in the submitted report is not of legitimate public interest. Thus, the department must withhold the medical information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining information contains a Texas driver's license number and class. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit 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 Texas driver's license number and class we have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, the department must withhold the marked medical information under section 552.101 of the Government Code in conjunction with common-law privacy, and the marked Texas driver's license number and class under section 552.130 of the Government Code. The remaining information must be released.<sup>3</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, 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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

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<sup>1</sup>The 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).

<sup>2</sup>Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them 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.

<sup>3</sup>We note the information to be released includes 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.

Ref: ID# 407956

Enc. Submitted documents

c: Requestor  
(w/o enclosures)