



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 30, 2011

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County District Attorney's Office
401 West Belknap
Fort Worth, Texas 76196-0201

OR2011-08677A

Dear Ms. Fourt:

This office issued Open Records Letter No. 2011-08677 (2011) on June 17, 2011. We have examined this ruling and determined that we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on June 17, 2011. Your request was assigned ID# 428041.

The Tarrant County Sheriff's Office (the "sheriff") received a request for a specified offense report. You state some information has been released to the requestor. You claim the submitted information is 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. Section 552.101 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. 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, information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. *See* Open Records Decisions Nos. 393 (1983), 339 (1982); *see also* Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* ORD 393, 339; *see also* ORD 440 (detailed descriptions of serious sexual offenses must be withheld). The submitted information relates to a sexual offense. Although you seek to withhold the submitted information in its entirety, there is no indication the requestor knows the identity of the victims named in the submitted information. Accordingly, we conclude withholding only the victims' identifying information is sufficient to protect the victims' privacy in this instance. Therefore, the sheriff must withhold only the information we have marked under section 552.101 in conjunction with common-law privacy. None of the remaining information is highly intimate or embarrassing and the sheriff may not withhold any of the remaining information under section 552.101 on that basis of common-law privacy.

We note the submitted information contains a driver's license number subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Accordingly, the sheriff must withhold the driver's license number we have marked under section 552.130.²

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must also withhold the marked driver's license number under section 552.130 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes the withholding of 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.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/bs

Ref: ID# 428041

Enc. Submitted documents

c: Requestor
(w/o enclosures)

