



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 21, 2011

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2011-10454

Dear Ms. Lentz:

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# 424547.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified incident. You claim some of the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 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 exception encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82.

This office has found some kinds of medical information or information indicating disabilities or specific illnesses is 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). Having considered your arguments and reviewed the information at issue, we agree the medical information you marked is of no legitimate public interest in this case. Thus, the sheriff must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. We additionally note that

the video recordings you submitted contain the same medical information you marked in the report. You state the sheriff lacks the technological ability to redact such confidential information from these recordings. We therefore conclude the sheriff must also withhold the submitted video recordings in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Upon review, we agree the motor vehicle record information you marked is subject to section 552.130. However, a portion of this information belongs to the requestor's spouse and the requestor in this instance may be acting as her spouse's authorized representative. Under section 552.023 of the Government Code, 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. Thus, because section 552.130 is based in privacy principles, the requestor has a right of access under section 552.023 to her spouse's motor vehicle record information if she is acting as his authorized representative. *See* Gov't Code § 552.023. In such case, the marked information pertaining to the requestor's spouse may not be withheld from the requestor under section 552.130. However, the sheriff must withhold the remaining motor vehicle record information you have marked under section 552.130 of the Government Code.<sup>1</sup>

Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. The marked information includes the requestor's spouse's social security number. If the requestor is acting as her spouse's authorized representative, then the sheriff may not

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<sup>1</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.

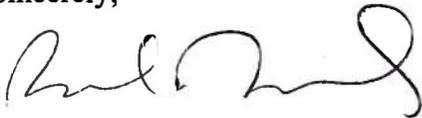
withhold her husband's social security number. *See generally id.* § 552.023(b). The sheriff may withhold the remaining social security numbers you marked in the submitted information under section 552.147.<sup>2</sup>

In summary, the sheriff must withhold the information you marked, and the submitted video recordings in their entirety, under section 552.101 of the Government Code in conjunction with common-law privacy. In the event the requestor is acting as the authorized representative of her spouse, the sheriff must release the vehicle record information and social security number of the requestor's spouse pursuant to section 552.023 of the Government Code.<sup>3</sup> The sheriff must withhold the remaining information you marked under section 552.130 of the Government Code and may withhold the remaining information you marked 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](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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/eb

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<sup>2</sup>We note 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.

<sup>3</sup>In the event the requestor is acting as the authorized representative of her spouse, the information being released includes information that is confidential with respect to the general public. *See Gov't Code* § 552.023. In such case, if the sheriff receives another request for this information from an individual other than this requestor, the sheriff may withhold the requestor's spouse's social security number pursuant to section 552.147(b) and must withhold the requestor's spouse's driver's license number under section 552.130 of the Government Code pursuant to Open Records Decision No. 684.

Ref: ID# 424547

Enc. Submitted documents

c: Requestor  
(w/o enclosures)