



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 28, 2011

Ms. Traci S. Briggs  
Deputy City Attorney  
City of Killeen  
PO Box 1329  
Killeen, Texas 76540

OR2011-10892

Dear Ms. Briggs:

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# 425279 (Killeen ID# W005560).

The City of Killeen (the "city") received a request for all information pertaining to case numbers 11-2227, 11-1163, 11-456, and 10-9370. 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 that (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 satisfied. *Id.* at 681-82. This office has found 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). Upon review, we have marked the submitted medical information that is of no legitimate public interest. The city must withhold this

marked information under section 552.101 of the Government Code in conjunction with common-law privacy. You do not provide arguments explaining how any of the remaining information is highly intimate or embarrassing and of no legitimate public interest. *See generally Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.) (common-law right to privacy lapses at death); Open Records Decision No. 272 at 1 (1981). Thus, no remaining information may be withheld under section 552.101.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration.<sup>1</sup> 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 have marked the motor vehicle record information in the submitted reports. Section 552.130 protects privacy interests. Privacy is a personal right that lapses at death. *See Moore*, 589 S.W.2d at 497; *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984), H-917 (1976); Open Records Decision No. 272 at 1 (1981). Therefore, motor vehicle record information pertaining only to a deceased individual may not be withheld under section 552.130. To the extent the information we marked relates to any living individual, it falls within the scope of section 552.130 and the city must withhold it on that basis.

We note the submitted information includes private e-mail addresses that are subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). The e-mail addresses we have marked are not of a type specifically excluded by section 552.137(c). Accordingly, the city must withhold the e-mail addresses we have marked under section 552.137, unless the owners of the addresses affirmatively consent to their disclosure.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must also withhold the information we marked under section 552.130 of the Government Code, but must release any such information that pertains solely to a deceased individual. The city must withhold the e-mail addresses we have marked under section 552.137, unless the owners of the

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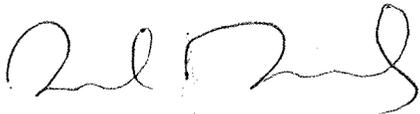
<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

addresses affirmatively consent to their disclosure.<sup>2</sup> The remaining submitted 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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/tf

Ref: ID# 425279

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<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 without the necessity of requesting an attorney general decision, including Texas license plate numbers and Texas driver's license numbers under section 552.130 of the Government Code and e-mail addresses of members of the public under section 552.137 of the Government Code.

<sup>3</sup>We note the remaining information contains social security numbers of living individuals. 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. See Gov't Code § 552.147.