



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 11, 2011

Mr. Jason L. Mathis  
For Town of Addison  
Cowles & Thompson  
901 Main Street, Suite 3900  
Dallas, Texas 75202-3793

OR2011-11587

Dear Mr. Mathis:

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# 426591 (Reference No. W001936-052511).

The Addison Police Department (the "department"), which you represent, received a request for all records pertaining to a specified incident involving a named individual. You inform this office the department will withhold Texas driver's license numbers under section 552.130 of the Government Code pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted incident report and photographs 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 No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps).

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<sup>1</sup>Open Records Decision No. 684 authorizes 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.

You assert the submitted incident report and photographs are protected by common-law privacy and should be withheld in their entirety because the information "solely deals with a minor." The submitted information reflects it pertains to injuries sustained by a minor during an accidental fall. In this instance, you have not demonstrated, nor does the information reflect, the information involves a situation in which the information must be withheld in its entirety on the basis of common-law privacy. The incident report, however, contains medical information, which we have marked, that we find is not of legitimate public interest. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. You have not established any of the remaining information is highly intimate or embarrassing. Consequently, none of the remaining information may be withheld on the basis of common-law privacy. As you have not claimed any other exceptions to disclosure, the department must release the remaining information.

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

Ref: ID# 426591

Enc. Submitted documents

c: Requestor  
(w/o enclosures)