



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 7, 2011

Mr. Jeff Tippens  
For City of Sunset Valley  
Scanlan, Buckle & Young, P.C.  
602 West 11th Street  
Austin, Texas 78701-2099

OR2011-14580

Dear Mr. Tippens:

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# 432385.

The City of Sunset Valley (the "city"), which you represent, received a request for two specified reports and for "January 20-21, 2007 (Case no. unknown)." You claim the submitted information is excepted from disclosure under sections 552.130 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us the city requested clarification of the portion of the request seeking "January 20-21, 2007 (Case no. unknown)." *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). You do not indicate the city has received a response to its request for clarification. Accordingly, the city has no obligation at this time to release any information that might be responsive to this portion of the request. However, if the city receives clarification and wishes to withhold any of the information encompassed by the clarified request, you must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request an attorney general ruling is measured from date request is clarified or narrowed).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>1</sup> Gov’t Code § 552.101. Section 552.101 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. The type of information considered highly intimate or 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. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are protected by 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). A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouses files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. Upon review, we find the information we marked is highly intimate or embarrassing and of no legitimate concern to the public. Therefore, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country, information related to a motor vehicle title or registration issued by an agency of this state or another state or country, and information related to 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, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130). We note section 552.130 does not protect dates of birth or the issuing state from public disclosure. Additionally, because section 552.130 protects personal privacy, we find the requestor in this case has a right of access to her own motor vehicle record information under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a), (b) (individual has special right of access to information that relates to herself and is protected by laws intended to protect her privacy interests, and governmental body may not deny access on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4

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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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(privacy theories not implicated when individual requests information concerning herself). We also find the requestor is an authorized representative of her minor son, and she has a right of access to his private information. *See* Gov't Code § 552.023. Accordingly, the city must withhold only the information we have marked under section 552.130 of the Government Code.

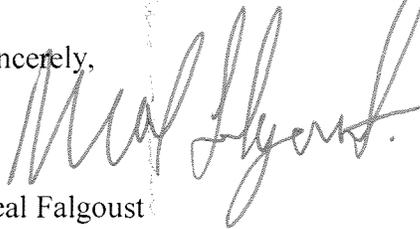
Section 552.147 of the Government Code provides, “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov't Code § 552.147. The city may withhold the social security number you marked under section 552.147.<sup>2</sup>

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 withhold the information we marked under section 552.130 of the Government Code. The city may withhold the social security number you marked under section 552.147 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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

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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>We note the requestor has a right of access to some of the information being released under section 552.023 of the Government Code. Therefore, if the city receives another request for this same information from a different requestor, it must again seek a ruling from this office.

Mr. Jeff Tippens - Page 4

Ref: ID# 432385

Enc. Submitted documents

c: Requestor  
(w/o enclosures)