



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 16, 2011

Ms. Elizabeth L. White  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2011-18548

Dear Ms. White:

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# 439187 (PIR# 11-2934).

The City of League City (the "city"), which you represent, received a request for all documents, photographs, statements, and recordings pertaining to a specified case number. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You state you have notified an interested third party of the request for information and of his right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from the interested third party. We have considered the submitted arguments 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." *Id.* § 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 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 that 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 Decision Nos. 440 (1986), 393 (1983), 339 (1982). 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* Open Records Decision Nos. 393 (1983), 339 (1982); *see also* Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). Although you seek to withhold the submitted information in its entirety on the basis of common-law privacy, the requestor in this instance is the victim of the alleged sexual assault and therefore has a special right of access to her own information that would otherwise be withheld on the basis of privacy. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). Accordingly, the city may not withhold the submitted information in its entirety from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

This office has also found that 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 find some of the submitted information is highly intimate or embarrassing, is not of legitimate public concern, and implicates the privacy interests of a person other than the requestor. Therefore, the city must withhold the information we have indicated pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130. The city must withhold the driver's license numbers you have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have indicated pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the driver's license numbers you have marked under section 552.130 of the Government Code. The remaining information must be released to this requestor.<sup>1</sup>

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<sup>1</sup>Because the requestor has a right of access under section 552.023 of the Government Code to some of the information being released, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office. *See* Gov't Code §§ 552.023(a), .301, .302.

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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/ag

Ref: ID# 439187

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Daniel C. Mitchell  
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League City, Texas 77573  
(w/o enclosures)