



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2012

Ms. Tamma Willis
McLennan County Sheriff's Office
901 Washington Avenue
Waco, Texas 76701

OR2012-11860

Dear Ms. Willis:

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# 460809.

The McLennan County Sheriff's Office (the "sheriff's office") received a request for the report for case number 12-0847. 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. 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. 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 also 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 No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we have marked information that is highly intimate or embarrassing and is of no legitimate public interest. Thus, the sheriff's office must generally withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. We

note, however, that the requestor may be the authorized representative of the individual to which the marked information pertains. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is the authorized representative of the individual at issue, then, pursuant to section 552.023, none of the information we have marked may be withheld from the requestor under section 552.101 in conjunction with common-law privacy. Otherwise, the sheriff's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

Section 552.130(a)(1) of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by any agency of this state or another state or country is exempted from public release.¹ Gov't Code § 552.130(a)(1). Upon review, the driver's license number we have marked must be withheld under section 552.130(a)(1) of the Government Code.

In summary, if the requestor is the authorized representative of the individual at issue, then, pursuant to section 552.023 of the Government Code, none of the information we have marked may be withheld from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. Otherwise, the sheriff's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The driver's license number we have marked must be withheld under section 552.130(a)(1) of the Government Code. The sheriff's office must release the remaining information.²

¹The 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).

²We note the information being released contains the requestor's (1) driver's license number, which is generally confidential under section 552.130 of the Government Code and (2) social security number, which may generally be withheld under section 552.147 of the Government Code. However, because sections 552.130 and 552.147 protect personal privacy, the requestor has a right of access to her own information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Additionally, 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. *See id.* § 552.147(b). Thus, if the sheriff's office receives another request for this same information from a person who does not have such a right of access, sections 552.130(c) and 552.147(b) authorize the sheriff's office to redact the driver's license number and social security number, respectively.

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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 460809

Enc. Submitted documents

c: Requestor
(w/o enclosures)