



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 18, 2012

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2012-14801

Dear Ms. Graham:

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# 465166.

The Mesquite Police Department (the "department") received a request for three specified offense reports. You state you have released two of the requested reports to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 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 Nos. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure), 422 (1984), 343 (1982). Upon review, we find the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, the department must withhold the marked information 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 that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). Upon review, we find the information you have marked is subject to section 552.130. Therefore, the department must generally withhold the information you have marked under section 552.130.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the department may generally withhold the social security numbers you have marked under section 552.147(a).

However, we note sections 552.130 and 552.147 protect personal privacy. We note the requestor may be acting as the authorized representative of her spouse, whose privacy interests are at issue. In that event, the requestor would have a right of access under section 552.023 of the Government Code to her spouse's information. *See id.* § 552.023(a) (person or a person's authorized representative has special right of access, beyond the right of general public, to information held by a governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Accordingly, if the requestor is acting as her spouse's authorized representative, the department may not withhold from this requestor information that would otherwise be withheld under section 552.130 or 552.147 to protect this individual's privacy. However, if the requestor is not acting as her spouse's authorized representative, the department must withhold the information pertaining to her spouse marked under section 552.130 and may withhold her spouse's social security number under section 552.147. In either event, the department must withhold the information pertaining to the other individual marked under section 552.130.

In summary, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as her spouse's authorized representative, the department must withhold the information pertaining to her spouse marked section 552.130 of the Government Code and may withhold her spouse's social security number under section 552.147 of the Government Code. The department must withhold the information pertaining to the other individual

marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.¹

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 465166

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released in this instance contains the requestor's driver's license number and social security number, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code §§ 552.023(a), .130; ORD 481 at 4. 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. *See* 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, 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 department 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 department to redact the requestor's driver's license information and social security number, respectively.