



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2014

Mr. John K. McKinney, Jr.
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 102
Conroe, Texas 77301

OR2014-04813

Dear Mr. McKinney:

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# 517429 (County ORR #2014-7423).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. You state you have released some of the requested information to the requestor. You state you will withhold motor vehicle record information not pertaining to the requestor under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009)¹ and social security numbers not pertaining to the requestor under section 552.147(b) of the Government Code.² You claim that the submitted information is

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsection 552.130(a) of the Government Code without the necessity of seeking a decision from the attorney general. *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). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to subsection 552.130(a) only in accordance with section 552.130, not Open Records Decision No. 684.

²Section 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. Gov't Code § 552.147(b).

excepted from disclosure under section 552.101 of the Government Code.³ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual at issue and the nature of the incident, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the submitted report in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. However, we agree that portions of the submitted information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The sheriff's office has failed to demonstrate, however, how the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the sheriff's office may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy. Accordingly, the remaining information must be released.⁴

³We note that although you raise section 552.108 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim section 552.108 applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

⁴The information being released contains the requestor's driver's license information and social security number, to which the requestor has a right of access. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987). As previously noted, section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general and 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. *See* Gov't Code §§ 552.130(c), .147(b). If a governmental body redacts information subject to subsection 552.130(c), it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Thus, if the sheriff's office receives another request for this particular information from a different requestor, then the sheriff's office may withhold the requestor's driver's license information under section 552.130(c) of the Government Code and her social security number under section 552.147(b) of the Government Code. *See id.* §§ 552.130(c), .147(b).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a large, stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 517429

Enc. Submitted documents

c: Requestor
(w/o enclosures)