



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 30, 2014

Ms. Karen Goodman  
Records Coordinator  
City of Burleson  
225 West Renfro  
Burleson, Texas 76028

OR2014-09259

Dear Ms. Goodman:

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# 526993 (Burleson No. 266).

The City of Burleson (the "city") received a request for a specified incident report. You state you have released some information to the requestor. 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. 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, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. The submitted information pertains to a report of alleged sexual assault. In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see*

*also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). However, a governmental body is required to withhold an entire report when the requestor knows the identity of the alleged victim.

In this instance, the requestor knows the identity of the alleged sexual assault victim. However, the requestor is the spouse of the individual whose privacy interests are at issue, and may be this individual's authorized representative. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Because we are unable to determine whether the requestor is the authorized representative of the individual whose privacy interests are at issue, we must rule conditionally. If the requestor is not the authorized representative of the individual, then the submitted report must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is the authorized representative of the individual, he has a right of access to information pertaining to the individual that would otherwise be confidential under common-law privacy, and the submitted information may not be withheld under section 552.101 of the Government Code on that basis. In that instance, we note some of the information at issue is subject to section 552.130 of the Government Code.<sup>1</sup> As this section makes information confidential under the Act, we will address its applicability to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). We note section 552.130 protects privacy interests. Therefore, if the requestor is his spouse's authorized representative, then he has a right of access to his spouse's driver's license information pursuant to section 552.023, and this information may not be withheld from him under section 552.130. However, the driver's license information we have marked pertains to an individual other than the requestor's spouse, and the city must withhold this information under section 552.130 of the Government Code.

In summary, if the requestor is not acting as his spouse's authorized representative, then the city must withhold the submitted information in its entirety under section 552.101 of the

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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).

Government Code in conjunction with common-law privacy. If the requestor is acting as his spouse's authorized representative, then the city must withhold the driver's license information we have marked, which pertains to an individual other than the requestor's spouse, under section 552.130 of the Government Code. The city must release the remaining information to the requestor.

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](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,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 526993

Enc. Submitted documents

c: Requestor  
(w/o enclosures)