



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 24, 2006

Ms. Katie Lentz
Williamson County Sheriff's Office
Open Records
508 South Rock Street
Georgetown, Texas 78626

OR2006-07962

Dear Ms. Lentz:

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# 255356.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for two specified reports as well as all reports at a specified address involving two named individuals. We understand that the sheriff's office has released some responsive information, but you claim that the some of the submitted information is 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception 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. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and 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. 540 S.W.2d at 683.

The information submitted as Exhibit B contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. In most cases, only this information would be excepted from disclosure under section 552.101 in conjunction with common-law privacy. In this instance, however, the requestor knows the nature of the incident in question as well as the identity of the individual involved. Therefore, withholding only the nature of the incident would not preserve the individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, we find that the entirety of Exhibit B is excepted from disclosure under section 552.101 in conjunction with common-law privacy. We also find that some information contained in Exhibit C, which we have marked, is protected by common-law privacy.

We note, however, that the submitted information reflects that the requestor may be the common-law spouse of the individual to whom the private information pertains. As such, the requestor may have a special right of access to information that would otherwise be protected based on his spouse's common-law right to privacy. *See Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (person has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest).* In this regard, if the requestor is seeking the submitted information on behalf of his spouse, pursuant to section 552.023, the requestor has a special right of access to this information, and it may not be withheld from him under section 552.101 on the basis of common-law privacy. Otherwise, the sheriff's office must withhold Exhibit B in its entirety and the information we have marked in Exhibit C pursuant to section 552.101 and common-law privacy.

Next, you seek to withhold a Texas driver's license number under section 552.130 of the Government Code. This section excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. We note, however, that section 552.130 excepts information from disclosure in order to protect individuals' privacy. The driver's license number at issue belongs to the requestor. Accordingly, he has a special right of access under section 552.023 to his own driver's license number, and it may not be withheld from him under section 552.130. *See Gov't Code § 552.023(a).*

Lastly, you seek to withhold three social security numbers under section 552.147 of the Government Code. This section provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). One of the social security numbers at issue belongs to the requestor. The requestor has a right of access to his own social security number under section 552.023(b), and it may not be withheld from him under section 552.147. One of the other social security numbers at issue belongs to the individual who appears to be the requestor's common-law spouse. If the requestor is seeking this information on behalf of his spouse, he has a special right of access to her social security number, and it may not be withheld from him on this basis. If the requestor is not seeking this information on his spouse's behalf, her social

security number must be withheld under section 552.147. The sheriff's office must also withhold the remaining social security number of the third individual pursuant to section 552.147.¹

To summarize, the entirety of Exhibit B and the information we have marked in Exhibit C is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy, and this information must be withheld on that basis unless the requestor is seeking the information on behalf of his spouse. If the requestor is seeking this information on behalf of his spouse, he has a special right of access to it under section 552.023 of the Government Code and none of it may be withheld from him based on section 552.101 and common-law privacy. Further, if the requestor is seeking this information on his spouse's behalf, he also has a right of access to her social security number, and it may not be withheld from him under section 552.147 of the Government Code. Otherwise, if the requestor is not seeking this information on his spouse's behalf, her social security number must be withheld under section 552.147. In either case, the social security number of the third individual must be withheld pursuant to section 552.147. The remaining submitted information must be released to the requestor.²

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body

¹We note that 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.

²Because some of this information would not be releasable with respect to the general public, if the sheriff's office receives a future request for this information from a person other than the requestor or his authorized representative, the sheriff's office should again seek our decision.

will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/eb

Ref: ID# 255356

Enc. Submitted documents

c: Mr. Johnathan David Roberson
2075 Victory Way Lane
Saint Louis, Missouri 63138
(w/o enclosures)