



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2009

Mr. Don Hatcher
Chief of Police
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2009-15350

Dear Mr. Hatcher:

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# 360791.

The Leander Police Department (the "department") received a request for information related to a specified event. You claim that 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 representative sample of submitted.¹

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 common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release 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). The types of information considered 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. You claim the submitted incident report should be withheld in its entirety on the basis of common-law privacy. Generally, only in certain instances, where it is demonstrated that the requestor knows the identity of the victim and

¹We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the nature of certain incidents, do we require an entire report to be withheld to protect the victim's privacy. Although you seek to withhold this report in its entirety, you have not demonstrated, nor does the report reflect, that it is a situation in which the entire report must be withheld on the basis of common-law privacy. However, we agree that portions of the report, which we have marked, are highly intimate or embarrassing and not of legitimate public interest. Thus, the department must withhold the types of information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

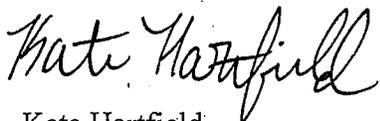
You also assert that portions of the submitted information are excepted from disclosure under sections 552.130 and 552.147 of the Government Code. Section 552.130 excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Section 552.147(a) provides that the social security number of a living person is excepted from required public disclosure under the Act. Gov't Code § 552.147(a). However, upon review, we determine that the remaining information does not contain Texas motor vehicle record information or social security numbers; thus, the department may not withhold any information under section 552.130 or section 552.147.

In summary, the department must withhold the types of information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/eeg

Ref: ID# 360791

Enc. Submitted documents

c: Requestor
(w/o enclosures)