



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 11, 2010

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2010-00518

Dear Mr. Phillips:

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# 366872 (PIR No. 0237-10).

The City of Fort Worth (the "city") received a request for incident report number 09-114401. You claim that portions of the submitted information are 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 (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). The types 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. *Id.* at 683. This office has found that 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 No. 455 (1987) (prescription drugs, illnesses,

operations, and physical handicaps). Upon review, we agree a portion of the submitted information is intimate or embarrassing and of no legitimate public interest. Accordingly, the information you have marked in yellow, along with the additional information we have marked, is generally confidential under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note that as the daughter of the individual whose private information is at issue, the requestor may be this individual's authorized representative. If the requestor is the authorized representative of this individual, then she has a special right of access to information that would ordinarily be withheld to protect privacy interests. *See Gov't Code § 552.023(a)* (person or 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 is protected from public disclosure by laws intended to protect person's privacy interests). Thus, if the requestor has a right of access under section 552.023, then the city may not withhold the information at issue on privacy grounds under section 552.101. *See Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual requests information concerning himself). Alternatively, if the requestor is not the individual's authorized representative, then the city must withhold the information you have marked in yellow pursuant to section 552.101 in conjunction with common-law privacy.

Additionally, you state you redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued by the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See Gov't Code § 552.301(a)*; Open Records Decision No. 673 at 7-8 (2001). You also state that you have redacted a social security number pursuant to section 552.147 of the Government Code.<sup>1</sup> However, because sections 552.130 and 552.147 are based on privacy principles, the requestor may have a right of access to her mother's Texas motor vehicle information and social security number under section 552.023 of the Government Code. *See Gov't Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is her mother's authorized representative, then the Texas motor vehicle information and social security number we marked may not be withheld from this requestor. If the requestor is not her mother's authorized representative, then the marked motor vehicle information must be withheld under section 552.130 of the Government Code, and the marked social security number may be withheld under section 552.147 of the Government

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<sup>1</sup>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.

Code. With the exception of the remaining Texas motor vehicle record information you redacted, the remaining information must be released.<sup>2</sup>

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](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,



James McGuire  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 366872

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the information being released contains the requestor's driver's license number and social security number. See Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987). As this information may be confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.