



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 16, 2011

Mr. Mark D. Kennedy  
Chief- Civil Division  
Hays County Criminal District Attorney  
110 East Martin Luther King  
San Marcos, Texas 78666

OR2011-03632

Dear Mr. Kennedy:

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# 411285.

The Hays County Juvenile Detention Center (the "center") received a request for the date and condition of a named individual's end of employment, any complaints filed against the named individual from both employees and juveniles, any administrative hearing actions taken against the named individual, and the outcome of those hearings. You state the center will release some of the requested information. You claim 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. *See 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. *See id.* at 681-82. 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. This office has also found common-law privacy protects the identifying information of juvenile offenders. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code §§ 58.007(c), 51.02(2) (defining “child as a person who is ten years of age or older and under seventeen years of age). Upon review, we find portions of the submitted information to be highly intimate or embarrassing and not of legitimate public interest. Accordingly, the center must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy.

We note you have redacted a social security number pursuant to section 552.147 of the Government Code. 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. Gov’t Code § 552.147. However, we note that the social security number at issue belongs to the requestor’s spouse. As such, the requestor has a right of access to her spouse’s social security number pursuant to section 552.023, if she is acting as his authorized representative. *See id.* § 552.023 (person or person’s authorized representative has a special right of access to information that relates to a person that are protected from public disclosure by laws intended to protect that person’s privacy interest). Accordingly, pursuant to section 552.023, the requestor has a right of access to her spouse’s social security number if the requestor is acting as his authorized representative, and the center may not withhold this information under section 552.147 of the Government Code. *See id.* § 552.023. If the requestor is not acting as the authorized representative of her spouse, then the center may withhold the social security number at issue under section 552.147.

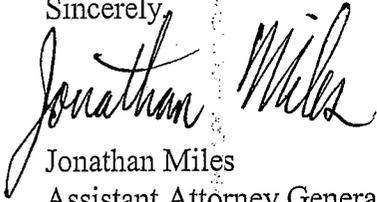
In summary, the center must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of her spouse, the center may withhold the social security number you have redacted under section 552.147 of the Government Code. 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](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,

A handwritten signature in cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned to the left of the typed name.

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 411285

Enc. Submitted documents

c: Requestor  
(w/o enclosures)