



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2014

Ms. M. Ann Montgomery-Moran
Assistant County & District Attorney
County of Ellis
109 South Jackson
Waxahachie, Texas 75165

OR2014-08157

Dear Ms. Montgomery-Moran:

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# 522481.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for all documents related to a specified accident, including the initial 9-1-1 call reporting the accident, as well as all recorded audio transmissions and electronic and hard-copy records associated with the accident. You claim 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 section 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. Additionally, in Open Records Decision No. 393 (1983), this office concluded information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must 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 at 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). Furthermore, this office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. See Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 600 (1992) (personal financial information includes choice of a particular insurance carrier). Upon review, we find the portions of the submitted video you indicated, as well as the information we marked, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the sheriff's office must withhold the portions of the video you indicated, as well as the information we marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, motor vehicle title or registration, and 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). The purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, a driver's license number that pertains to a deceased individual may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); see also *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984), H-917 (1976); Open Records Decision No. 272 at 1 (1981). Thus, the motor vehicle information pertaining to a deceased person may not be withheld under section 552.130. The sheriff's office must withhold the motor vehicle record information in the documents you marked, the additional information we marked, and the information you indicated within the audio file ending 3-07-33, under section 552.130 of the Government Code. However, neither of the remaining audio files you indicated contain motor vehicle record information pertaining to a living individual and, therefore, you may not withhold any portion of the remaining information under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”¹ Gov't Code § 552.136(b); see *id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Thus, the sheriff's office must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

¹The 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).

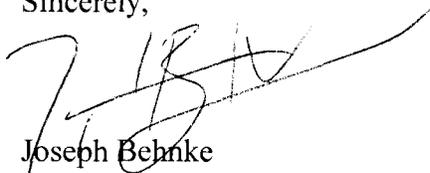
Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147(a). Upon review, we find no portion of the remaining information consists of a social security number of a living individual. Accordingly, the sheriff's office may not withhold any portion of the remaining information under section 552.147 of the Government Code.

In summary, the sheriff's office must withhold the portions of the video you indicated, as well as the information we marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information in the documents you marked, the additional information we marked, and the information you indicated within the audio file ending 3-07-33, under section 552.130 of the Government Code. The sheriff's office must withhold the insurance policy numbers we have marked under section 552.136 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.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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 522481

Enc. Submitted documents

c: Requestor
(w/o enclosures)