



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Ms. Jordan Davisson
Assistant District Attorney
Hays County District Attorney's Office
712 South Stagecoach, Suite 2057
San Marcos, Texas 78666

OR2014-15214

Dear Ms. Davisson:

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# 534769.

The Hays County District Attorney's Office (the "district attorney's office") received a request for a specified incident report. You claim the submitted information is 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. This exception encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is 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 elements of this test must be established. *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, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

Generally, only highly intimate information implicating the privacy of an individual is withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the entirety of the information at issue under section 552.101 in conjunction with common-law privacy, we find this is not a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the district attorney's office may not withhold the entirety of the information at issue under section 552.101 of the Government Code. However, upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the information we have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the remaining information may not be withheld 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, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release.¹ Gov't Code § 552.130(a). Accordingly, the district attorney's office must withhold the information we have marked under section 552.130.

In summary, the district attorney's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district attorney's office must withhold the motor vehicle record information we have marked under section 552.130. The district attorney's office must release the remaining submitted information to the requestor.

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

¹The office of the Attorney General will raise a mandatory exception such as 552.130 of the Government Code on behalf of a governmental body, but will ordinarily not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Abigail T. Adams". The signature is written in black ink and is positioned above the typed name.

Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 534769

Enc. Submitted documents

c: Requestor
(w/o enclosures)