



January 20, 2015

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-01015

Dear Mr. Kopp:

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# 550611 (COSA File No. W035136).

The San Antonio Police Department (the "department") 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person and the public has no legitimate interest in it. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, the requestor may be the authorized representative of the individual whose privacy interests are at issue. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds information is considered confidential under privacy principles); Open Records Decision No. 481 at 4

(1987) (privacy theories not implicated when individuals request information concerning themselves). Because we are unable to determine whether the requestor is the authorized representative of the individual whose privacy interests are at issue, we must rule conditionally. If the requestor is not the authorized representative of the individual, the department 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 the authorized representative of the individual, she has a right of access to information pertaining to the individual that would otherwise be confidential under common-law privacy, and the information we have marked may not be withheld under section 552.101 on that basis. We further find you have failed to demonstrate how the remaining information is highly intimate or embarrassing and of no legitimate concern to the public. Consequently, the department may not withhold any of the remaining information under section 552.101 on this basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ Gov't Code § 552.130(a). We note section 552.130 protects privacy interests. As such, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. We have marked another individual's motor vehicle record information that is subject to section 552.130 of the Government Code. As noted above, however, the requestor may be the authorized representative of the individual whose privacy interests are at issue. As such, this requestor, if acting as the individual's authorized representative, has a right of access to the individual's marked motor vehicle record information. *See* Gov't Code § 552.023(a); ORD 481 at 4. In this instance, it is not clear that this requestor is acting as the individual's authorized representative. Therefore, we must rule conditionally. If the requestor is the authorized representative of the individual, the department must release this information to the requestor. If the requestor is not the authorized representative of the individual, the department must withhold the individual's motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, if the requestor is not the authorized representative of the individual at issue, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy and the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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).

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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 550611

Enc. Submitted documents

c: Requestor
(w/o enclosures)

