



January 20, 2015

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

OR2015-01052

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# 550614 (COSA Reference No. W036448).

The City of San Antonio (the "city") 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 (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, 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 that implicates the privacy of an individual is withheld. 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. You seek to withhold the entirety of the submitted

information under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the city may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis. Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city has failed to demonstrate, however, how any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

We note some of the remaining information is subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the city must generally withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In this instance, however, the requestor may be the spouse of one of the individuals whose privacy interests are at issue. Thus, the requestor may be the authorized representative of that individual, and may have a right of access to her spouse's motor vehicle record information. Thus, if the requestor is acting as her spouse's authorized representative, then she has a right of access to his motor vehicle record information pursuant to section 552.023, and this information may not be withheld from her under section 552.130. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond the 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); Open Records Decision No. 481 at 4 (1987). If the requestor is not acting as her spouse's authorized representative, then the city must withhold the motor vehicle record information we have marked under section 552.130.

In summary, the city 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 her spouse's authorized representative, the city must withhold his marked motor vehicle record information under section 552.130 of the Government Code. The city must withhold the remaining motor vehicle record information we have marked under

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 552.130 of the Government Code. The city must release the remaining information to this requestor.²

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 550614

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a right of access beyond that of the general public to some of the information being released that pertains to herself, which is normally excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy, section 552.130 of the Government Code, and section 552.147 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. We also note the remaining information contains social security numbers. 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(b). Because section 552.147 protects personal privacy interests and because, as previously noted, the requestor may be the authorized representative of one of the individuals whose social security number is at issue, the requestor may have a right of access under section 552.023 to that individual's social security number. *Id.* § 552.023(b). If the requestor is an authorized representative of the individual at issue, then she has a right of access under section 552.023 of the Government Code to the individual's social security number, and it may not be withheld from her under section 552.147. If the requestor is not an authorized representative of the individual at issue, we note the city may withhold it under section 552.147(b).