



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 19, 2015

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

OR2015-09732

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# 564014 (COSA File No. W065401).

The City of San Antonio (the "city") received a request for a specified incident report. You claim the requested 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 that the requestor knows the identity of the individual at issue and the nature of the incident, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the submitted report in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. However, we find the information we have marked is highly embarrassing and not of legitimate public interest. Accordingly, we find the city must generally withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

We note, however, that the requestor is the spouse of the individual to whom the marked information pertains and may have a right of access to this information. *See* Gov't Code § 552.023(b) ("person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). Thus, if the requestor is acting as the authorized representative of his spouse, then he has a right of access to the marked information pursuant to section 552.023(b), and this information may not be withheld under section 552.101 in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of his spouse, then the city must withhold the marked information under section 552.101 in conjunction with common-law privacy.

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 personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> *See id.* § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); *see also* ORD 481 at 4. However, the motor vehicle record information we have marked does not pertain to the requestor. Therefore, the city must generally withhold the motor vehicle record information we have marked under section 552.130.

As previously noted, the requestor is the spouse of the individual whose motor vehicle record information is at issue. Because section 552.130 protects personal privacy, if the requestor is acting as the authorized representative of his spouse, then he has a right of access to his spouse's motor vehicle record information pursuant to section 552.023. In that instance, the city may not withhold the marked information under section 552.130. *See id.* However, if the requestor is not acting as his spouse's authorized representative, then the city must withhold the information we have marked under section 552.130 of the Government Code.

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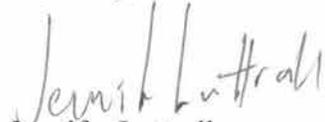
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, if the requestor is not acting as the authorized representative of his spouse, then the city must (1) withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold the information we have marked under section 552.130 of the Government Code; and (3) release the remaining information. If the requestor is acting as the authorized representative of his spouse, then the city must release the 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 564014

Enc. Submitted documents

c: Requestor  
(w/o enclosures)