



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2016

Ms. Rachel Saucier
Legal Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2016-06286

Dear Ms. Saucier:

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# 602230 (ORR G001945-123015).

The Georgetown Police Department (the "department") received a request for a specified incident report. You claim portions of the submitted information are 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 "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. Upon review, we find portions of the submitted information satisfy 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, we find the department failed to demonstrate the remaining information

is highly intimate or embarrassing and of no legitimate public interest. Therefore, the department may not withhold the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.1175 of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.¹ *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to "officers and employees of a community supervision and corrections department under Chapter 76 who perform a duty described by Section 76.004(b)[.]" *Id.* § 552.1175(a)(6). We note the remaining information contains information pertaining to an individual who may be subject to section 552.1175. Thus, the information we have marked must be withheld from disclosure under section 552.1175 of the Government Code if it relates to an individual subject to section 552.1175 who elects to restrict access to her information in accordance with section 552.1175(b). If the individual whose information is at issue is not subject to section 552.1175 or does not elect to restrict access to her information in accordance with section 552.1175(b), the information at issue may not be withheld under section 552.1175 of the Government Code.

We note some of the remaining information is subject to section 552.130 of the Government Code. 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 id.* § 552.130. We note section 552.130 protects personal privacy. We note some of the information we marked pertains to the requestor's spouse. The requestor may be acting as her spouse's authorized representative, and may have a right of access to information pertaining solely to her spouse that would otherwise be private. *See id.* § 552.023 (person or person's authorized representative has special right of access, beyond 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); *see* Open Records Decision No. 481 at 4 (1987). Accordingly, if the requestor is acting as the authorized representative of her spouse, then the department may not withhold the portions of the marked information pertaining solely to the requestor's spouse from this requestor under section 552.130. If the requestor is not acting as her spouse's authorized representative, then the department must withhold the information we marked which relates to her spouse under section 552.130. In either event, the department must withhold the remaining information we marked under section 552.130 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).

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common law privacy. The department must also withhold the information we have marked under section 552.1175 of the Government Code if it relates to an individual subject to section 552.1175 who elects to restrict access to her information in accordance with section 552.1175(b). The department must also withhold the information we have marked under section 552.130 of the Government Code; however, if the requestor is acting as the authorized representative of her spouse, then the department may not withhold any portion of the marked information pertaining solely to the requestor's spouse from the requestor under section 552.130 of the Government Code. The remaining information must be released.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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 602230

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains the requestor's motor vehicle record information, to which the requestor has a right of access under section 552.023 of the Government Code. See Gov't Code § 552.023(a); ORD 481 at 4.