



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2017

Ms. Michelle Gilbert
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2017-08715

Dear Ms. Gilbert:

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# 654760.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. You claim some of 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). Upon review, we find the information you have marked and the additional information we have marked satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. The sheriff's

office seeks to withhold dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).¹ We note however, the previous determination is not applicable to dates of birth requested by a person or the authorized representative of a person whose date of birth is at issue. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). We note the requestor is also the spouse of the individual whose privacy is at issue. Thus, the requestor may be the authorized representative of his spouse, and may have a right of access to information pertaining to his spouse that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(b); ORD 481 at 4. Accordingly, if the requestor is acting as the authorized representative of his spouse, then the sheriff's office may not withhold the information at issue from this requestor under section 552.101 of the Government Code on the basis of common-law privacy. However, if the requestor is not acting as the authorized representative of his spouse, then the sheriff's office must withhold the information at issue 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, 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. Gov't Code § 552.130(a). We note section 552.130 protects privacy interests. As noted above, the requestor may be the authorized representative of the individual whose motor vehicle record information you have marked. Thus, he may have a right of access to his spouse's motor vehicle record information. *See id.* § 552.023; ORD 481. Accordingly, if the requestor is acting as the authorized representative of his spouse, then he has a right of access to the motor vehicle record information pertaining to that individual pursuant to section 552.023, and this information may not be withheld from him under section 552.130. If the requestor is not acting as the authorized representative of his spouse, then the sheriff's office must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, if the requestor is not acting as the authorized representative of his spouse, then the sheriff's office must withhold the information you have marked and the additional 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 the authorized representative of his spouse, then the sheriff's office must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. The sheriff's office must release the remaining information.

¹Open Records Letter No. 2016-21706 is a previous determination authorizing the sheriff's office to withhold the dates of birth of living individuals under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 654760

Enc. Submitted documents

c: Requestor
(w/o enclosures)