



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 16, 2009

Mr. Mark Mann
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR2009-04996

Dear Mr. Mann:

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# 342494 (GCA09-0148).

The Garland Police Department (the "department") received a request for a specified police report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses,

operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review of the submitted information, we agree that the information you have marked in blue is highly intimate and embarrassing and not of legitimate public concern. Thus, this information is generally confidential under section 552.101 in conjunction with common-law privacy. However, we find that the remainder of the submitted information is not highly intimate and embarrassing or is of legitimate public concern and is not made confidential by the doctrine of common-law privacy.

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from [disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1), (2). Accordingly, the vehicle identification numbers and Texas license plate numbers you have marked are generally confidential pursuant to section 552.130.

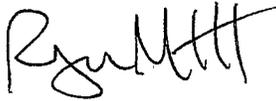
However, we note that the requestor is the grandchild of the parties whose privacy is implicated by this request. Under section 552.023 of the Government Code, a person's authorized representative has a special right of access to private information that would otherwise be excepted from public disclosure. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself or person for whom she is authorized representative). Accordingly, if the requestor establishes that she is an authorized representative of the persons whose privacy is implicated by her request, the city must release the submitted information in its entirety.

In summary, if the requestor establishes that she is an authorized representative of the persons whose privacy is implicated by her request, the city must release the submitted information in its entirety. Conversely, if the requestor does not establish that she is an authorized representative of the persons whose privacy is implicated by her request, the city must withhold the information you have marked under section 552.101 in conjunction with common-law privacy and the information you have marked under section 552.130, but must release the remainder of the submitted information.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/eb

Ref: ID# 342494

Enc. Submitted documents

cc: Requestor
(w/o enclosures)