



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2009

Ms. Thao La
Assistant District Attorney
Dallas County
411 Elm Street, Fifth Floor
Dallas, Texas 75202

OR2009-16800

Dear Ms. La:

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# 362424.

The Dallas County Constables of Precincts 1 through Precinct 5 (the "constables") received requests for all impound sheets and dispatch logs from June 1, 2008 through September 1, 2009. You state the requestor subsequently narrowed his request to include only impound sheets and traffic citations from February 2009 from Precinct 1 and Precinct 5. You claim that the submitted information is excepted from disclosure under section 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 information made confidential by other

¹We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

statutes. You claim that portions of the requested information are confidential under chapter 730 of the Transportation Code. You raise section 730.004, which provides that:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code §730.004. Section 730.003 provides that, for purposes of chapter 730:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4). Section 730.004 applies only to an "agency" that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have not established that the constables compile or maintain motor vehicle records; therefore, section 730.004 does not apply to the constables. Accordingly, the constables may not withhold any part of the requested information under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See Open Records Decision No. 478 at 2 (1987)* (language of confidentiality statute controls scope of protection).

You assert a portion of the submitted information is excepted from disclosure under common-law privacy. Section 552.101 of the Government Code incorporates the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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. 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. *Id.* at 683. In addition, this office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we conclude that no portion of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the constables may not withhold any portion of this information under section 552.101 in conjunction with common-law privacy.

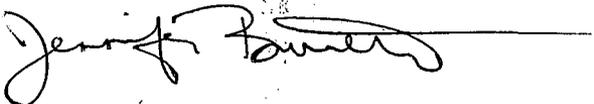
Next, you raise section 552.130 of the Government Code against disclosure of a portion of the submitted information. Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Accordingly, the constables must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the constables must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eeg

Ref: ID# 362424

Enc. Submitted documents

c: Requestor
(w/o enclosures)