



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2010

Mr. Paul F. Wieneskie
Attorney for City of Euless
204 South Mesquite
Arlington, Texas 76010

OR2010-04046

Dear Mr. Wieneskie:

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# 374377.

The Euless Police Department (the "department"), which you represent, received a request for forms and procedures for filing a complaint against the department and "videos, recordings and written material" related to the requestor's arrest. You state you will release all requested information except the jail video recordings and a portion of the narrative. You claim the information at issue 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the doctrine of common-law 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, 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. Upon review, we agree that clip 3 of the submitted video recordings contains information that is highly intimate or embarrassing and of no legitimate public interest. You inform us the department does not have the technical capability to redact the information subject to section 552.101 in the indicated video clip. Therefore, the department must withhold clip 3 in its entirety pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate how any of the information in the remaining video clips is highly intimate or embarrassing information that is of no legitimate public interest. Thus, the department may not withhold any of the remaining video clips on that basis.

Section 552.130 of the Government Code excepts from disclosure information that “relates to ... a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. The department must withhold the Texas motor vehicle record information, which we have marked, from the submitted documents under section 552.130 of the Government Code.¹

In summary, the department must withhold clip 3 of the submitted video recordings under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the Texas motor vehicle record information we have marked 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.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

¹ We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number and a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

² We note the requestor, as the individual whose information is at issue, has a special right of access to some of the information being released in this instance. Gov’t Code § 552.023(a) (person or person’s authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests). Because such information may be confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read "Mack T. Harrison". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/rl

Ref: ID# 374377

Enc. Submitted documents

c: Requestor
(w/o enclosures)