



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 28, 2010

Mr. Danny Presley  
Government Liaison  
City of Texarkana  
P.O. Box 1967  
Texarkana, Texas 75504-1967

ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

OR2010-09522

Dear Mr. Presley:

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# 385351.

The City of Texarkana (the "city") received a request for information related to offense report number T10-2534. We understand you to claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. We have considered the exception 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. Section 552.101 encompasses the doctrine of common-law privacy, which excepts from public disclosure private information about an individual if the information (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). The type 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.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. Here, you seek to withhold the submitted information in its entirety. However, you have not demonstrated, nor does it appear, that this is a situation where the information at issue must be withheld in its entirety on the basis of common-law privacy. We agree portions of the submitted information, which we marked, are highly intimate or embarrassing and not of legitimate public concern. You have not explained, nor can we discern, how the remaining submitted information is protected by common-law privacy.

Further, we note in this instance the requestor may be the insurance provider of the individual whose private information is at issue. Section 552.023 of the Government Code provides "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *See* Gov't Code § 552.023(a); *see also id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on the grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or individual's authorized representative requests information concerning the individual). Thus, if this requestor is acting as the subject individual's authorized representative, he has a right of access to information pertaining to that individual that would ordinarily be excepted from disclosure under section 552.101 in conjunction with common-law privacy. Therefore, if the requestor is acting as the authorized representative of the individual whose private information is at issue, the city may not withhold the information at issue from this requestor on the basis of common-law privacy. Otherwise, the city must withhold the information we have marked 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 title or registration issued by a Texas agency is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(2). The information we have marked must generally be withheld under section 552.130. However, we note section 552.130 protects personal privacy. As such, if the requestor is acting as the subject individual's authorized representative, the requestor has a right of access to the marked Texas motor vehicle record information. *See id.* § 552.023(a), ORD 481 at 4. If the requestor is not acting as the subject individual's authorized representative, the city must withhold the information we have marked under section 552.130

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

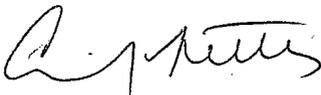
of the Government Code.<sup>2</sup> If the requestor is acting as the subject individual's authorized representative, the city may not withhold the marked information from this requestor under section 552.130.

In summary, to the extent this requestor does not have a right of access under section 552.023 of the Government Code, the city must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy and 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 385351

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination authorizing all governmental bodies to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.