



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2010

Mr. Peter B. Smith
City Attorney
P.O. Box 831078
Richardson, Texas 75083-1078

OR2010-10096

Dear Mr. Smith:

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# 385780 (Richardson File No. 10-289).

The Richardson Police Department (the "department") received two requests from the same requestor for several specified police reports and all information concerning specified incidents. You claim that 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. This section encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 established. *Id.* at 681-82.

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. This office has found

personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). 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, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor do the submitted reports reflect, a situation in which the submitted information must be withheld on the basis of common-law privacy in its entirety. However, we agree that portions of the submitted information, which we have marked, are highly intimate or embarrassing and not of legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing or is of legitimate public concern, and it may not be withheld on the basis of common-law privacy.

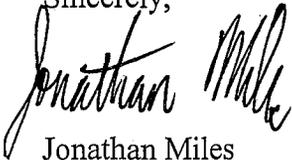
Next, you have marked some of the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. You state you have marked information pursuant to Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them 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. We note that section 552.130 protects personal privacy. In this instance, the requestor is one of the individuals whose privacy interests are implicated. Thus, the requestor has a right of access to his own motor vehicle record information, which we have marked for release, and the department may not withhold this information under section 552.130. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, solely on grounds that information is considered confidential by privacy principles). Accordingly, we agree that, with the exception of the requestor's motor vehicle information which must be released, the department may withhold the Texas driver's license and license plate numbers you have marked in the remaining information pursuant to Open Records Decision No. 684 without seeking a decision from our office. We note that the vehicle identification number you have marked is not subject to Open Records Decision No. 684 and may not be redacted without requesting an attorney general decision. Upon review, we find that the department must withhold the vehicle identification number you have marked in the remaining information, and the additional information we have marked, under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except where we have marked for release, the department must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The remaining information must be released.¹

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_ori.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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 385780

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note that because the requestor has a special right of access to information that would otherwise be confidential in this instance, the department must again seek a decision from this office if it receives another request for the same information from a different requestor.