



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 4, 2010

Ms. Charlotte A. Towe
Assistant General Counsel
TDCJ- Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2010-11793

Dear Ms. Towe:

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# 389200.

The Texas Department of Criminal Justice (the "department") received a request for all documents pertaining to a human resources command referral involving a named department employee. You state you have made or will make some of the requested information available to the requestor. 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. Section 552.101 encompasses 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). The type of information considered intimate or 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 of the information at issue, we find portions of the submitted information are highly intimate and embarrassing or not of legitimate public interest. Accordingly, the

department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, no portion of the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the department may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

We note some of the remaining information is confidential under section 552.117(a)(3) of the Government Code.¹ Section 552.117(a)(3) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175. Gov't Code § 552.117(a)(3). Thus, the department must withhold the information we have marked under section 552.117(a)(3) of the Government Code.

We also note portions of the remaining information are subject to section 552.130 of the Government Code, which provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Accordingly, the department must withhold the Texas motor vehicle record information we have marked in the remaining information pursuant to section 552.130 of the Government Code.²

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, section 552.117(a)(3) of the Government Code, 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, 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We 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 license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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 'Nneka Kanu', written in a cursive style.

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 389200

Enc. Submitted documents

cc: Requestor
(w/o enclosures)