



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 6, 2010

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

OR2010-11933

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# 389587 (Richardson ORR No. 10-346).

The Richardson Police Department (the "department") received a request for report number 07-058429. You claim portions of the submitted report are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted report.

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 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 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. The types 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. *See id.* at 683. We agree most of the information you marked, and the additional information we marked, are highly intimate or embarrassing and of no legitimate public interest. You have not demonstrated, however, how the remaining information you marked is protected by privacy. Accordingly, with the exception of the information we marked for release, the department must withhold the information you marked, and the additional information we marked, under section 552.101 in conjunction with common-law privacy.

We note portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). Therefore, the department must withhold the Texas driver's license numbers and class types we marked under section 552.130.<sup>2</sup>

In summary, with the exception of the information we marked for release, the department must withhold the information you marked, and the additional information we marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the driver's license numbers and class types we marked under section 552.130. 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,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/em

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<sup>1</sup>The 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).

<sup>2</sup>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 license driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)