



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2011

Ms. Tiffany Bull  
Assistant City Attorney  
City of Arlington  
P.O. Box 1065  
Arlington, Texas 76004

OR2011-08081

Dear Ms. Bull:

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# 420079 (Reference No. 3562-032811).

The Arlington Police Department (the "department") received a request for information pertaining to a specified case number. You state you have released some of the requested information. You claim 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 public 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 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 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. *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 under common-law privacy. 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. In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. Therefore, the submitted information may not be withheld in its entirety under section 552.101 in conjunction with common-law privacy. However, we find that portions of the submitted information as well as the submitted audio, which we have marked, are highly intimate or embarrassing and of no legitimate concern to the public. Thus, the marked information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the remaining information may fall under section 552.1175 of the Government Code.<sup>1</sup> Section 552.1175 provides in part:

(b) Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). The remaining information includes personal information of a peace officer. If this individual is a currently licensed peace officer, the department must withhold the personal information we have marked under section 552.1175 to the extent the individual elects with the department to restrict public access to his personal information. If this individual either is not a currently licensed peace officer or does not elect with the department to restrict public access to his personal information, the department may not withhold the marked information pertaining to this individual under section 552.1175.

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

We further note a portion of the remaining information is subject to section 552.130 of the Government Code, which exempts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit. *Id.* § 552.130(a)(1). Accordingly, the department must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code.<sup>2</sup>

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. If the individual concerned is a currently licensed peace officer, the department must withhold the personal information we have marked under section 552.1175 to the extent the individual elects with the department to restrict public access to his personal information. The department must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code. The department must release the remaining submitted information.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

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

Ref: ID#420079

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)