ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2012

Ms. Susan Camp-Lee
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2012-05541

Dear Ms. Camp-Lee:

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# 451630 (No. 1285).

The Round Rock Police Department (the "department"), which you represent, received a request for information related to 9-1-1 calls involving two specified addresses during a specific time period. You indicate the department will withhold driver's license and personal identification information pursuant to section 552.130(c) of the Government Code, an insurance policy number pursuant to section 552.136(c) of the Government Code, and social security numbers pursuant to section 552.147(b) of the Government Code.[1] You also indicate a Texas license plate number will be withheld pursuant to the previous

[1]Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the driver's license and personal identification information described in subsections 552.130(a)(1) and (a)(3). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Section 552.136(c) authorizes a governmental body to redact, without the necessity of requesting a decision, access device numbers subject to section 552.136(b). *See id.* § 552.136(c); *see also id.* § 552.136(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.136(c) to attorney general, and governmental body withholding information pursuant to section 552.136(c) must provide notice to requestor). Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision. *See id.* § 552.147(b).

determination issued under section 552.130 in Open Records Decision No. 684 (2009).[2] You claim other responsive information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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. You claim section 552.101 in conjunction with common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. *See* 540 S.W.2d at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information also are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). We also have concluded common-law privacy encompasses certain types of personal financial information. Financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 545 at 4 (1990) ("In general, we have found the kinds of financial information not excepted from public disclosure by common-law privacy to be those regarding the receipt of governmental funds or debts owed to governmental entities"), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). Additionally, this office has concluded a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person, and is generally not of legitimate concern to the public. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal

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[2]Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number under section 552.130.

history). We note information related to routine traffic violations does not implicate privacy concerns. *Cf.* Gov't Code § 411.081(b).

We have marked medical, personal financial, criminal history and other information in the submitted documents that is highly intimate or embarrassing and not a matter of legitimate public interest. The department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. Although the department seeks to withhold other information on this basis, we conclude the other information you have marked is not highly intimate or embarrassing and a matter of no legitimate public interest. We therefore conclude the department may not withhold any of the remaining information on privacy grounds under section 552.101.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See id.* § 552.130(a)(1)-(2). We agree the department must withhold the motor vehicle information you have marked under section 552.130 of the Government Code. We have marked driver's license information the department also must withhold under section 552.130.

We note the department may be required to withhold some of the remaining information under section 552.1175 of the Government Code.[3] Section 552.1175 protects information related to a peace officer, as defined by article 2.12 of the Code of Criminal Procedure. *See id.* § 552.1175(a)(1). Section 552.1175 provides in part:

> (b) Information that relates to the home address, home telephone number, emergency contact information, or social security number of an individual to whom this section applies, 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.

Id. § 552.1175(b). The department must withhold the information we have marked under section 552.1175 of the Government Code if it pertains to a peace officer employed by a

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[3]This office will raise section 552.1175 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

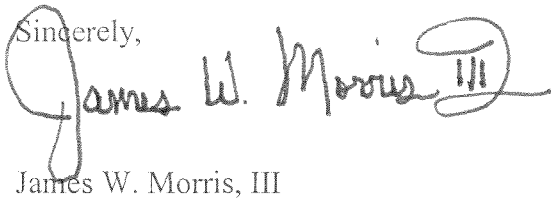
governmental entity other than the department who elects to restrict access to the information in accordance with section 552.1175(b).

In summary, the department must withhold (1) the medical, personal financial, criminal history and other information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the motor vehicle information you have marked and the driver's license information we have marked under section 552.130 of the Government Code; and (3) the information we have marked under section 552.1175 of the Government Code if it pertains to a peace officer employed by a governmental entity other than the department who elects to restrict access to the information in accordance with section 552.1175(b). The rest of the submitted 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 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 451630

Enc: Submitted documents

c: Requestor
(w/o enclosures)