



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 20, 2012

Ms. Michelle L. Villarreal  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2012-13073

Dear Ms. Villarreal:

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# 462768 (City of Waco Reference # LGL-12-849).

The Waco Police Department (the "department") received a request for a specified case involving four named individuals and a named location. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions 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 if it (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be met. *Id.* at 681-82. The types 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. *See id.* at 683. In addition, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public

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<sup>1</sup>Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this section based on your markings in the submitted information.

disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree some of the information at issue is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, we find the department has failed to demonstrate how the remaining information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Accordingly, the department must withhold the motor vehicle record information it has marked under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy and the information it has marked under 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](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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

Ref: ID# 462768

Enc. Submitted documents

c: Requestor  
(w/o enclosures)