



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 5, 2012

Ms. Alexis G. Allen  
Counsel for the City of Red Oak  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard Street  
Dallas, Texas 75201

OR2012-14029

Dear Ms. Allen:

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# 464642 (Reference #56179).

The Red Oak Police Department (the "department"), which you represent, received a request for any information pertaining to a named individual, including a specified report or reports occurring on specified dates. 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.

Initially, we note you have only submitted one police report for our review. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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. This section encompasses the common-law right to 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. *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 prongs of this test must be met. *See id.* at 681-82. Common-law privacy protects the types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* 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).

You claim the submitted information is protected in its entirety by common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the submitted information must be withheld in its entirety on the basis of common-law privacy. Upon review, however, we agree that portions of the submitted information are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, the department has failed to demonstrate how the remaining information 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 information relating to a motor vehicle operator's or driver's license or permit issued by an agency of Texas or another state or country is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(1). We find the department must withhold the driver's license numbers we have marked under section 552.130 of the Government Code.

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 and the driver's license numbers we have 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

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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).*

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,



**Nneka Kanu**  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 464642

Enc. Submitted documents

c: Requestor  
(w/o enclosures)