



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2013

Mr. R. Brooks Moore
Managing Counsel, Governance
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 778740-7896

OR2013-01249

Dear Mr. Moore:

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# 476577 (TAMU 12-562).

Texas A&M University (the "university") received a request for seven specified incident reports. You state the university will redact information as permitted by section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record 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 certain notice to requestor). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including a Texas license plate number under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision.

²Although you do not specifically raise section 552.130 of the Government Code, you have marked additional information for which you appear to claim this exception. Accordingly, we will address section 552.130, 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).

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 common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. The types of information considered highly 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. *Indus. Found.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated 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.

You claim the submitted reports must be withheld in their entirety on the basis of common-law privacy. In this instance, the information at issue reveals the requestor knows the identity of the individual involved as well as the nature of the information at issue in two of the reports. Therefore, withholding only the subject person's identity or certain details of these incidents from the requestor would not preserve the subject individual's common-law right of privacy in those reports. Accordingly, to protect the privacy of the individual to whom the information relates, the university must withhold the reports we have marked in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy.³ However, you have not demonstrated, nor does it otherwise appear, the incidents at issue in the remaining reports are situations in which the remaining reports must be withheld in their entirety on the basis of common-law privacy. Accordingly, the university may not withhold the remaining reports in their entirety under section 552.101 in conjunction with common-law privacy. However, we find portions of the remaining information are highly intimate and embarrassing and not of legitimate public interest. Thus, the university must withhold the remaining information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Therefore, the university must withhold the information you have marked under section 552.130(a)(2).

In summary, the university must withhold the reports we have marked in their entirety and the remaining information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must withhold the information you

³As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

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 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 476577

Enc. Submitted documents

c: Requestor
(w/o enclosures)