



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2013

Ms. Janis K. Hampton
City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2013-01544

Dear Ms. Hampton:

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# 477103.

The Bryan Police Department (the "department") received a request for the dispatch notes from 9-1-1 response calls to five specified addresses from 2011 to the date of the request. You state you will release some information to the requestor. We note you have redacted Texas license plate numbers pursuant to the previous determination in Open Records Decision No. 684 (2009).¹ You claim that portions of the submitted information are exempted 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 exempts 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

¹Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2) of the Government Code, without requesting an attorney general decision.

demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *See id.* at 681-82. The type 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. Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the remaining information may not be withheld under section 552.101 in conjunction with common-law privacy.

We note some of the remaining information is subject to section 552.130 of the Government Code.² Section 552.130 provides 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. *See Gov't Code* § 552.130. The department must generally withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. However, in this instance, the submitted report contains information about a vehicle that may be owned by the requestor. Section 552.023 of the Government Code provides that a governmental body may not deny access to a person or a person's authorized representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. *Id.* § 552.023(a). Thus we must rule conditionally. If the requestor is the owner of the vehicle at issue, then the requestor has a right of access to this information pursuant to section 552.023. However, if the requestor is not the owner of the vehicle at issue, the department must withhold the motor vehicle record information 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. The department must withhold the information we have marked under section 552.130; however, if the requestor is the owner of the vehicle at issue, the department must release this information to the requestor pursuant to section 552.023 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.

²The 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).*

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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 477103

Enc. Submitted documents

c: Requestor
(w/o enclosures)