ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2013

Mr. Steven Meyer
Assistant City Attorney
Legal Division
Arlington Police Department
P.O. Box 1065, Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2013-07176

Dear Mr. Meyer:

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# 485872 (Reference No. 010468-021213).

The Arlington Police Department (the "department") received a request for all police reports and 9-1-1 call dispatch pertaining to a specified address. You indicate you will release some information to the requestor. 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Gov't Code § 552.101. Section 552.101 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 type 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. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and handicaps).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that 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 state the requestor knows the identity of the individual involved in the submitted reports and you seek to withhold the submitted reports in their entirety. However, you have not demonstrated, nor does it otherwise appear, the incidents at issue in the submitted reports present situations in which the submitted reports must be withheld in their entireties on the basis of common-law privacy. Accordingly, the department may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, upon review, we find portions of the submitted information, which we have marked and indicated, are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the submitted information is subject to section 552.130 of the Government Code.[1] Section 552.130 of the Government Code excepts from disclosure information that relates 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. Gov't Code § 552.130(a)(1)-(2). Therefore, the department must withhold the motor vehicle record information we have marked and indicated under section 552.130 of the Government Code.[2]

In summary, the department must withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information we have marked and indicated under section 552.130 of the Government Code. The remaining information must be released.

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[1]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).

[2]Section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. *See* Gov't Code § 552.130(c); *see id.* § 552.130(d) (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general), .130(e) (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

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,

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 485872

Enc. Submitted documents

c: Requestor
(w/o enclosures)