



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2014

Ms. Jessica D. Richard
Assistant City Attorney
City of New Braunfels
424 South Castell Avenue
New Braunfels, Texas 78130

OR2014-03978

Dear Ms. Richard:

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# 516256.

The New Braunfels Police Department (the "department") received a request for an incident report involving a specified individual on a specified date. 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." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Generally, only highly intimate information that implicates an individual's privacy 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 privacy of the individual.

In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, this is a situation where the entirety of the information at issue must be withheld on the basis of common-law privacy. However, upon review, we find some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the 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 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.¹ See Gov't Code § 552.130(a)(1)-(2). Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.²

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 also withhold the motor vehicle record information 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 responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam A. Khalifa". The signature is fluid and cursive.

Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 516256

Enc. Submitted documents

c: Requestor
(w/o enclosures)