



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 11, 2014

Ms. Stacie S. White  
Counsel for the City of Euless  
Taylor, Olson, Adkins, Sralla, Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2014-22437

Dear Ms. White:

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# 546555.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim portions of the requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or

embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must generally withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note the requestor is the spouse of the individual whose information is at issue and may be this individual's authorized representative. In that instance, the requestor has a right of access to the information pertaining to his spouse that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the requestor is acting as the authorized representative of his spouse, then the department may not withhold the marked information under section 552.101 on the basis of common-law privacy. If the requestor is not acting as his spouse's authorized representative, then the department must withhold the information we have marked 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 license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects privacy interests and the information at issue pertains to the requestor's spouse. As noted above, the requestor may be acting as his spouse's authorized representative, and may have a right of access to information pertaining to his spouse that would otherwise be confidential. *See id.* § 552.023; *see* ORD 481 at 4. Accordingly, if the requestor is acting as the authorized representative of his spouse, then the department may not withhold the information we have marked under section 552.130. If the requestor is not acting as his spouse's authorized representative, then the department must withhold the information we have marked under section 552.130.

In summary, unless the requestor is acting as his spouse's authorized representative, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. In either instance, the department must release the remaining information.

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](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 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 that reads "Tamara H. Holland". The signature is written in a cursive style.

Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/bhf

Ref: ID# 546555

Enc. Submitted documents

c: Requestor  
(w/o enclosures)