



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 2, 1995

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR95-1033

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34959.

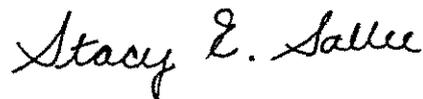
The Texas Department of Transportation (the "department") received a request from the Texas Lottery Commission for the employment record of Jason Taylor Pettit. You state that the department has provided all of the information in Mr. Pettit's employment file with the exception of one document. You claim that this document is excepted from disclosure under the "false light" privacy doctrine which you contend is incorporated into the Open Records Act through section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the document at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This includes information protected by common-law and constitutional privacy. However, since 1990, this office has held that "false light" privacy is not a proper consideration under the Open Records Act. Open Records Decision No. 579 (1990). Additionally, in *Cain v. Hearst Corp.*, 878 S.W.2d 577 (Tex. 1994), the Texas Supreme Court concluded that Texas does not recognize the tort of "false light" invasion of privacy. Therefore, the department may not withhold the requested information under the doctrine of "false light" privacy.

Additionally, we note that Mr. Pettit has signed a consent form for the disclosure of information requested by the Texas Lottery Commission. Finally, the information will be transferred to another state agency. Information may be transferred between governmental agencies without destroying its confidential character. Open Records Decision Nos. 567 (1990), 561 (1990), 516 (1989). Therefore, the department may release the requested information without it being "publicly" disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 34959

Enclosures: Submitted document

cc: Mr. H.M. Taylor
Texas Lottery Commission
Criminal Investigations Division
P.O. Box 16600
Austin, Texas 78761-6660
(w/o enclosures)