



April 23, 1999

Captain John Bruce
Frisco Police Department
8750 McKinney Road, Ste 500
Frisco, Texas 75034

OR99-1100

Dear Captain Bruce:

You ask this office to reconsider our ruling in Open Records Letter No. 99-0665 (1999). Your request was assigned ID# 124591.

The Frisco Police Department (the “department”) received a request for documents relating to the death of a named individual. In Open Records Letter No. 99-0665, this office concluded that the department had failed to raise the applicable exceptions within the statutory ten business day period. *See* Gov’t Code § 552.301. You now assert that the information is protected from disclosure by section 552.101 of the Government Code.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Information may be withheld under section 552.101 in conjunction with the common-law right to privacy only if the information is highly intimate or embarrassing *and* it is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

Section 552.101 also excepts information that is confidential under constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently, and (2) an individual’s interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual’s autonomy within “zones of privacy,” which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual’s privacy interests and the public’s need to know information of public concern. *Id.*