



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 20, 2006

Mr. Warren Spencer  
Legal Advisor, Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2006-06455

Dear Mr. Spencer:

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# 251801.

The Plano Police Department (the "department") received a request for all reports pertaining to three named individuals and a specified address. You claim that the requested 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.

Initially, we note that you have redacted a portion of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information properly labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See Gov't Code §§ 552.301(a), .301(e)(2)*. The department has redacted a Texas driver's license number from the submitted records. This office has not issued the department a previous determination to withhold this type of information. As such, this type of information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. As we are able in this instance to ascertain the nature of the information that you have redacted, we will determine whether it is excepted from public disclosure. In the future, however, the department should refrain from redacting any information that it submits to this office in seeking an open records ruling, unless the information at issue is subject to a previous determination issued by this office. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302. *Id.*

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. This section encompasses the doctrine of common law privacy. Common law privacy 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types 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. In addition, this office has found that the following types of information are excepted from required public disclosure under common law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review, we agree that the information we have marked constitutes highly intimate or embarrassing information for the purpose of common law privacy. Thus, the marked information must be withheld pursuant to section 552.101 in conjunction with common law privacy.<sup>1</sup>

We note that section 552.130 excepts from disclosure information that "relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130(a)(1), (2). In accordance with section 552.130, the department must withhold the marked Texas motor vehicle record information.

In summary, the department must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common law privacy and section 552.130 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(c). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

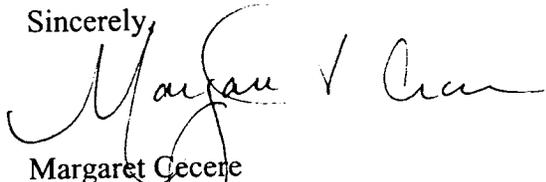
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Margaret Cecere  
Assistant Attorney General  
Open Records Division

MC/eb

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Enc. Submitted documents

c: Ms. Kimberly Vest  
4401 Westbend Lane  
Keller, Texas 76247  
(w/o enclosures)