



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2009

Mr. Scott Kelly
Deputy General Counsel
Texas A&M University Systems
200 Technology Way, Suite 2079
College Station Texas 77845

OR2009-00920

Dear Mr. Kelly:

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# 332957.

Texas A&M University (the "university") received a request for a specified police report. You claim that the submitted report is 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 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type 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. You assert that the entire report at issue is subject to common-law privacy. Generally, only highly intimate information that implicates the privacy of an individual 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 individual's privacy. After review of your arguments and the documents at issue, we find you have failed to demonstrate this is a situation in which the university must withhold the entire report in order to protect the privacy of the individual at issue. We agree, however, that this report contains information that is highly intimate or embarrassing and not of legitimate concern to the public. This information, which we have marked, must be withheld under section 552.101 in conjunction with common-law privacy.

You have highlighted Texas-issued driver's license information you seek to withhold under section 552.130 of the Government Code. Section 552.130 provides that information relating to a driver's license issued by a Texas agency is excepted from public release. *See* Gov't Code § 552.130(a)(1). The university must withhold the information you marked, as well as the additional information we marked, under section 552.130 of the Government Code.

In summary, the university must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy, as well as the information 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 332957

Enc. Submitted documents

c: Requestor
(w/o enclosures)