



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 29, 2009

Ms. Jerris Penrod Mapes  
Assistant City Attorney  
Killeen Police Department  
402 North Second Street  
Killeen, Texas 76541-5298

OR2009-05687

Dear Ms. Mapes:

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# 343378 (KPD# W000821).

The Killeen Police Department (the "department") received a request for two specific police reports. You state that the department asked the requestor for clarification of his request and he subsequently expanded his request to include the entire police record for a specified person. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). You state that the department has released some responsive information to the requestor. You claim that the submitted 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (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. *See id.* at 683. 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) (specific prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree that the information we have marked is highly intimate or embarrassing and not of legitimate public concern. However, we conclude that the remaining information at issue is not highly intimate or embarrassing. Accordingly, the department must withhold only the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note that the submitted information contains information subject to sections 552.130 and 552.137 of the Government Code.<sup>1</sup> 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). Accordingly, the department must withhold the Texas driver’s license number, vehicle identification numbers, and Texas license plate numbers we have marked pursuant to section 552.130.

Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). We have marked two iterations of an e-mail address that does not appear to be of the type excluded by subsection (c). Therefore, the department must withhold this e-mail address under section 552.137, unless it has received consent from the information’s owner to release this information.

In summary, the department must: (1) withhold the information we have marked under sections 552.101 in conjunction with common-law privacy; (2) withhold the information we have marked under section 552.130 of the Government Code, (3) withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the department has received consent to release such information, and (4) release the remainder of the submitted information to the requestor.

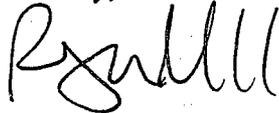
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception, such as section 552.130 or section 552.137, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,

A handwritten signature in black ink, appearing to read "Ryan T. Mitchell". The signature is fluid and cursive, with the first name "Ryan" being the most prominent part.

Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/jb

Ref: ID# 343378

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)