



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2009

Mr. Bryan McWilliams
Public Safety Legal Advisor
Assistant City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79108-1971

OR2009-13956

Dear Mr. McWilliams:

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# 357581.

The Amarillo Police Department (the "department") received a request for several categories of information pertaining to a specified incident. You claim some of 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.

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 exception 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 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.

Upon review, we agree that portions of the submitted information are highly embarrassing and not of legitimate public interest. The department must withhold the information we have marked in the submitted documents and the types of information we have indicated from the submitted video recording under section 552.101 of the Government Code in conjunction with common-law privacy. However, if the department is unable to redact the types of information we have indicated from the submitted video recording, then the video recording must be withheld in its entirety pursuant to section 552.101 in conjunction with common-law privacy. *See* Open Records Decision No. 364 (1983). However, you have failed to demonstrate how any of the remaining information constitutes highly intimate or embarrassing information of no legitimate concern to the public. Accordingly, the department may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

Next, we note some of the remaining information is excepted from disclosure under section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We note section 552.130 does not apply to out-of-state driver's license and motor vehicle record information. Accordingly, the department must withhold the Texas driver's license and motor vehicle record information we have marked in the submitted documents and the portions of the submitted photographs that reveal a Texas license plate number under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked in the submitted documents and the types of information we have indicated from the submitted video recording under section 552.101 of the Government Code in conjunction with common-law privacy. If the department is unable to redact the types of information we have indicated from the submitted video recording, then the video recording must be withheld in its entirety pursuant to section 552.101 in conjunction with common-law privacy. The department must withhold the Texas driver's license and motor vehicle record information we have marked in the submitted documents, as well as those portions of the photographs that reveal a Texas license plate number under section 552.130 of the Government Code. The remaining information must be released to the requestor.²

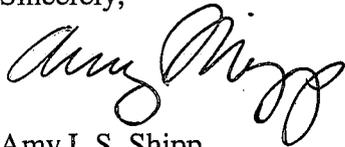
¹The Office of the Attorney General will raise a mandatory exception like section 552.130 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note that the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Although you request a previous determination regarding the requested categories of information, we decline to issue one at this time. Accordingly, 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 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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 357581

Enc. Submitted documents

cc: Requestor
(w/o enclosures)