



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2009

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P
Attorneys for City of McKinney
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2009-14021

Dear Mr. Griffith:

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# 357524.

The McKinney Police Department (the "department"), which you represent, received a request for reports pertaining to a named individual and a specified offense. 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. Section 552.101 encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) 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 some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree portions of the information at issue, which we have marked, are highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is either not highly intimate or embarrassing or it is of legitimate public interest. Therefore, the department may only withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

A portion of the remaining information is subject to section 552.130 of the Government Code, which 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[.]"¹ Gov't Code § 552.130. Accordingly, the department must withhold the Texas driver's license information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the information we marked under section 552.101 in conjunction with common-law privacy and the information we marked under section 552.130 of the Government Code. As you raise no further exceptions to disclosure of the remaining information, it must be released.²

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

¹The Office of the Attorney General will raise a mandatory exception 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 the information being released 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.

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,

A handwritten signature in black ink, appearing to read 'M Entsminger', with a stylized flourish at the end.

Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

Ref: ID# 357524

Enc. Submitted documents

c: Requestor
(w/o enclosures)