



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 25, 2013

Ms. Laura Russell  
Attorney  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744-3291

OR2013-18629

Dear Ms. Russell:

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# 503463 (TPWD Nos. 2013-08-R16 and 2013-08-R50).

The Texas Parks and Wildlife Department (the "department") received two requests for information pertaining to a specified incident involving a named individual. You state the department released some information. You claim portions of the submitted information are exempted from disclosure under sections 552.101, 552.1175, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by

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<sup>1</sup>Although you do not raise section 552.1175 and 552.130 of the Government Code, we understand you to assert that some of the submitted information is exempted from disclosure under these exceptions based on your markings.

the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). However, the public has a legitimate interest in knowing the details of a crime. *See* *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). Determinations under common-law privacy must be made on a case-by-case basis. *See* Open Records Decision No. 373 at 4 (1983); *Indus. Found.*, 540 S.W.2d at 685 (whether matter is of legitimate interest to public can be considered only in context of each particular case). Upon review, we find the information you have marked under common-law privacy is of legitimate public interest in the context of the subject individual’s arrest for boating while intoxicated. *See* *Lowe*, 487 F.3d at 250. Therefore, because this information is of legitimate public interest in this instance, the information you have marked is not confidential under common-law privacy and may not be withheld under section 552.101.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure.” *See id.* § 552.1175(a)(1). You have marked information pertaining to a licensed peace officer employed by Angelo State University. Accordingly, the department must withhold the information you have marked, and the additional information we have marked, under section 552.1175 of the Government Code to the extent the peace officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Accordingly, the department must withhold the information you have marked under section 552.130 of the Government Code.

In summary, the department must withhold the information you have marked and we have marked under section 552.1175 of the Government Code to the extent the peace officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b). The department must withhold the information you have 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Britni Fabian". The signature is written in a cursive, flowing style.

Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/dls

Ref: ID# 503463

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)