



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2014

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2014-12579

Dear Ms. Villarreal:

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# 529889 (City of Waco Ref. No. LGL 14-112).

The City of Waco (the "city") received a request for copies of all police narratives and statements from the alleged victim, witnesses, and the accused in a specified case involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683. Additionally, this

¹Although you do not raise section 552.130 of the Government Code in your brief, we understand you to claim this section based on your markings in the submitted information.

office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy; however, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identities of witnesses to and victims of sexual harassment are highly intimate or embarrassing information and public does not have legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). Further, in those instances where it is demonstrated the requestor knows the identity of the victim, the entire report must be withheld to protect the victim's privacy.

In this instance, you seek to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, and we are not able to determine, the requestor knows the identity of the victim. Accordingly, the city may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis. However, upon review, we find the information we have marked and indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the information we have marked and indicated must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

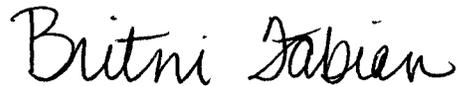
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Accordingly, with the exception of the information we have marked for release, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we have marked for release, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. The city must release the remaining information.

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, 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/tch

Ref: ID# 529889

Enc. Submitted documents

c: Requestor
(w/o enclosures)