



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 14, 2014

Ms. Karen Newby-Cooley  
Records Clerk  
Central Records Division  
Pflugerville Police Department  
P.O. Box 679  
Pflugerville, Texas 78691

OR2014-14290

Dear Ms. Newby-Cooley:

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# 533240.

The Pflugerville Police Department (the "department") received a request for information regarding a specified incident. You inform us you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not pertain to the specified incident. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.<sup>1</sup>

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

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<sup>1</sup>As we are able to make this determination, we do not consider your argument against disclosure of this information under section 552.108 of the Government Code.

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 office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find none of the responsive information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the responsive information must be released.<sup>2</sup>

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,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

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<sup>2</sup>We note the information to be released contains the requestor's driver's license information, which the department would be required to withhold from the general public under section 552.130(a)(1) of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right of access to her driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a). However, we note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Thus, if the department receives another request for this same information from a person who would not have a right of access to the present requestor's private information, section 552.130(c) authorizes the department to redact his driver's license information.

Ref: ID# 533240

Enc. Submitted documents

c: Requestor  
(w/o enclosures)