



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 31, 2015

Ms. Sarah Martin  
Assistant City Attorney  
City of Arlington  
Arlington Police Department  
Legal Division  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2015-06042

Dear Ms. Martin:

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# 558067 (Reference No. 18938).

The Arlington Police Department (the "department") received a request for information pertaining to a specified incident. You claim 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 "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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity

of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual's privacy. Although you assert the information at issue is confidential in its entirety pursuant to common-law privacy, we find this is not a situation where all of this information must be withheld to protect any individual's privacy interest. However, we find portions of the submitted information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must generally withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, that the requestor is the spouse of the individual to whom the submitted information pertains and may have a right of access to this information. *See* Gov't Code § 552.023(b) ("person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). Accordingly, if the requestor is acting as the authorized representative of her spouse, the department may not withhold any portion of the submitted information from this requestor on the basis of section 552.101 in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of her spouse, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release.<sup>1</sup> *Id.* § 552.130(a). We note section 552.130 protects privacy interests. As noted above, the requestor may be the authorized representative of the individual whose motor vehicle information is at issue. Thus, she may have a right of access to this individual's motor vehicle record information. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987). Accordingly, if the requestor is acting as the authorized representative of the individual at issue, then she has a right of access to the motor vehicle record information pertaining to that individual pursuant to section 552.023, and this information may not be withheld from her under section 552.130. If the requestor is not acting as the authorized representative of the individual, then the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, if the requestor is acting as the authorized representative of her spouse, then the submitted information must be released to this requestor. If the requestor is not acting as the authorized representative of her spouse, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

common-law privacy and the information we have marked under section 552.130 of the Government Code. In that instance, 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,



Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/cbz

Ref: ID# 558067

Enc. Submitted documents

c: Requestor  
(w/o enclosures)