



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 17, 2009

Mr. Gregory Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2009-02001

Dear Mr. Alicie:

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# 335529 (BPD case #2008-51947).

The Baytown Police Department (the "department") received a request for a specified incident report. You state that you will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted report are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (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*

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<sup>1</sup>We note that 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.

*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 is protected by 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 conclude that the information you have highlighted in yellow is intimate or embarrassing and of no legitimate public interest. Thus, this information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, you claim that the information that you have highlighted in orange is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted report relates to a pending criminal investigation. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the information you have highlighted in orange. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (*per curiam*) (court delineates law enforcement interests that are present in active cases). The department may, therefore, withhold the orange-highlighted information pursuant to section 552.108(a)(1) of the Government Code. We note that you have the discretion to release all or part of the orange-highlighted information that is not otherwise confidential by law. Gov’t Code § 552.007.

Next, you claim that the information you have highlighted in pink is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

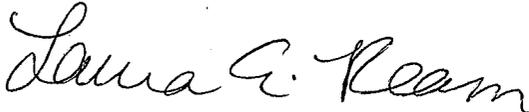
*Id.* § 552.130(a). We agree that the department must withhold the Texas motor vehicle information you have highlighted in pink under section 552.130.

In summary, the department must withhold the yellow-highlighted information under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold the orange-highlighted information under section 552.108 of the Government Code. The department must withhold the pink-highlighted information under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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](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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/jb

Ref: ID# 335529

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)