



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2011

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

OR2011-11039

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# 426303.

The Baytown Police Department (the "department") received a request for a full copy of case number 2011-16705. You state the department will redact the partial social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim the marked portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code 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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal prosecution. Based on your representation and our review, we conclude the release of the information you marked under

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<sup>1</sup>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. Gov't Code § 552.147(b).

section 552.108 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold this information under section 552.108 of the Government Code.<sup>2</sup>

The remaining information contains license plate numbers, a license plate number year and type, and a vehicle identification number that you marked under section 552.130 of the Government Code. This section provides in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

...

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

Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(2)). Therefore, the department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.<sup>3</sup>

You have marked a portion of the remaining information that you claim is protected by common-law privacy. Section 552.101 of the Government Code 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). This office has found some kinds of medical information or information indicating disabilities or specific illnesses to be excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). The information you marked reveals an individual's disability. In this instance, we agree this information is highly intimate or embarrassing and of no legitimate public interest. Therefore, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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<sup>2</sup>As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

<sup>3</sup>We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Finally, you raise section 552.151 of the Government Code for a portion of the remaining information. This section provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.151. You inform us the information you marked under section 552.151 identifies an undercover police officer employed by the department. You state the release of this information would subject the officer to a substantial threat of physical harm. Based on your representations, we conclude you have demonstrated release of the information you marked would subject the officer to a substantial threat of physical harm. Therefore, the department must withhold the information you marked under section 552.151. The remaining information must be released.

In summary, the department may withhold the information marked under section 552.108 of the Government Code. The department must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The information marked under section 552.101 of the Government Code in conjunction with common-law privacy must be withheld. Finally, the department must withhold the information marked under section 552.151 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.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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

Ref: ID# 426303

Enc. Submitted documents

c: Requestor  
(w/o enclosures)