



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2006

Mr. Miles K. Risley
Senior Assistant City Attorney
City of Victoria
P. O. Box 1758
Victoria, TX 77902-1758

OR2006-01592

Dear Mr. Risley:

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# 242543.

The Victoria Police Department (the "department") received a request for:

1. Information from case numbers 2005-0054599 and 2005-0054609;
2. "A survey and copy of the complete [p]olice incident/offense reports, complete supplemental reports, complete investigative reports and any photographs involving [a named individual] for any thefts, burglaries, vandalism's, [or] criminal mischief from October 2000, to the present[;]" and
3. "A survey and copy of the complete incident/offense reports, complete supplemental reports, complete investigative reports and any photographs involving any theft, burglary or vandalism type loss at [a specified address.]"

You state the department has released some information but claim that 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.¹

¹We note that the department has submitted two letters to this office which comprise the request at issue, each from the same insurance company seeking information pertaining to a specified claim number.

Initially, we note that some of the submitted information is not responsive to the instant request. Information that is not responsive to this request, which we have marked, need not be released. Moreover, we do not address such information in this ruling.

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. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial 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. 540 S.W.2d at 683. We have marked the information in the submitted documents that is protected by common law privacy and that must be withheld pursuant to section 552.101.

The submitted information also includes Texas motor vehicle information. Section 552.130 of the Government Code excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.”² Gov’t Code § 552.130. In accordance with section 552.130 of the Government Code, the department must withhold the Texas motor vehicle information that we have marked. *See* Gov’t Code § 552.130.

Finally, we note that the submitted information contains social security numbers. Section 552.147 of the Government Code³ provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the department must withhold the social security numbers contained in the submitted information under section 552.147.

In summary, we have marked the submitted information that is not responsive to this request and need not be released. The department must withhold the information we have marked under section 552.101 in conjunction with common law privacy. The department must also withhold the information we have marked pursuant to sections 552.130 and 552.147. The remaining submitted information must be released to the requestor.

²The 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).

³Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, ch. 397, 2005 Tex. Sess. Law Serv. 1091 (Vernon) (to be codified at Tex. Gov’t Code § 552.147).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Ramsey Abarca". The signature is written in a cursive style with a large initial "R".

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/krl

Ref: ID# 242543

Enc. Submitted documents

c: Ms. Kelly McElmurry
State Farm Insurance
P. O. Box 149183
Austin, Texas 78729
(w/o enclosures)