



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2009

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

OR2009-01332

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# 333800.

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

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. Common-law privacy 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 type of information considered intimate and embarrassing

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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.

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. *Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses is excepted from required public disclosure under 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 agree that the information you have highlighted in yellow is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information you have highlighted in yellow pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

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." Gov't Code § 552.130. Upon review, we agree that the information you have marked is subject to section 552.130. Accordingly, the department must withhold the information you have highlighted in pink under section 552.130 of the Government Code.

As to the remaining Texas motor vehicle record information, we note that the requestor is the insurance provider of one of the complainants listed in the submitted incident report and, as such, may be that complainant's authorized representative. However, it is not clear in this instance whether the requestor is the authorized representative of the owner of one of the vehicles involved in the incident. Therefore, we rule conditionally. If the requestor is the authorized representative of the owner of the vehicle at issue, she has a special right of access under section 552.023 of the Government Code to the Texas motor vehicle record information pertaining to that vehicle, which we have marked, and that information must be released to her. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). If the requestor is not the authorized representative of the owner of the vehicle at issue, the Texas motor vehicle record information we have marked must be withheld under section 552.130 of the Government Code.

In summary, the department must withhold the information you have highlighted in yellow pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you have highlighted in pink under section 552.130 of the Government Code. If the requestor is not the authorized representative of the owner of the vehicle at issue, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. If the requestor is the owner's authorized representative, the department must release the information we have marked pursuant to section 552.023 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 at (512) 475-2497.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/eeg

Ref: ID# 333800

Enc. Submitted documents

c: Requestor  
(w/o enclosures)