



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 28, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2010-01425

Dear Ms. Aguilar:

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# 368777.

The Corpus Christi Police Department (the "department") received a request for a specified police report. You state the department has released some of the requested information. 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 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are confidential 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 find that the information we have marked is highly intimate or embarrassing and not of legitimate public interest. We note, however, the requestor may be the authorized representative of the individual whose privacy interests are at issue. If the requestor is the authorized representative of that individual, he has a special right of access to the information we have marked under section 552.101 in conjunction with common-law privacy and it may not be withheld from him on that basis. *See Gov't Code § 552.023(b)* (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). If, however, the requestor is not the authorized representative of that individual, the department must withhold the

information we have marked under section 552.101 in conjunction with common-law privacy. Upon review, we find that the remaining information you have marked is not intimate or embarrassing and is of legitimate public interest. Accordingly, the remaining information you have marked may not be withheld under section 552.101 in conjunction with common-law privacy.

Next, you have marked portions of the submitted report 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). 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(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the marked information relates to a pending criminal case. Based on this representation, we conclude that the release of the information at issue 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.<sup>1</sup>

Section 552.130 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(a)(1)-(2). Upon review, we find that the Texas motor vehicle record information you have marked must generally be withheld under section 552.130.<sup>2</sup> We note that section 552.130 protects personal privacy. In this instance, the requestor may have a right of access under section 552.023 to some of the marked information if he is the authorized representative of the individual to whom the information pertains. *See generally id.* § 552.023(b). Accordingly, if the requestor is the authorized representative of that individual, the department may not withhold that individual’s Texas motor vehicle record information from the requestor under section 552.130. If the requestor does not have a right of access to the individual’s marked Texas motor vehicle record information, then it must be withheld under section 552.130 of the Government Code.

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<sup>1</sup>We note that you have the discretion to release all or part of the information you marked under section 552.108 that is not otherwise confidential by law. Gov’t Code § 552.007.

<sup>2</sup>This office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas driver’s license numbers and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy, unless the requestor is the authorized representative of the individual whose privacy interests are implicated. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. To the extent the requestor does not have a right of access to it, the department must withhold the Texas motor vehicle record information you have marked under section 552.130 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,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/jb

Ref: ID# 368777

Enc. Submitted documents

c: Requestor  
(w/o enclosures)