



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 13, 2010

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

OR2010-05195

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# 377830.

The Baytown Police Department (the "department") received two requests from the same requestor for two specified police reports. You state that you will redact the social security numbers you have marked pursuant to section 552.147 of the Government Code.¹ You claim that portions of the submitted 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 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 Foundation* included information relating to sexual assault, pregnancy, mental or physical

¹Section 552.147(b) 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.

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 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). You seek to withhold portions of the submitted information, which you have marked, under section 552.101 in conjunction with common-law privacy. Upon review, we conclude that the information we have marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, you have failed to demonstrate how the remaining information you have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, the department may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

You have marked portions of the remaining information under section 552.130 of the Government Code, which excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). However, the information you have marked pertains to a vehicle owned by the requestor. Because section 552.130 protects personal privacy, the requestor has a right of access to her own Texas motor vehicle record information under section 552.023 of the Government Code, and the department may not withhold this information from the requestor under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The remaining information must be released.²

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, or call the Office of the Attorney General's Open Government Hotline, toll free,

²We note that the information being released contains information that is confidential to the general public but to which the requestor has a special right of access under section 552.023 of the Government Code. If the department receives another request for this information from someone other than the requestor or the requestor's authorized representative, the department should again seek a ruling from this office.

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,

A handwritten signature in cursive script that reads "Kate Hartfield".

Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

Ref: ID# 377830

Enc. Submitted documents

c: Requestor
(w/o enclosures)