



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2010

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

OR2010-07291

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# 379984.

The Baytown Police Department (the "department") received a request for a report involving a named individual on a specified date. You state you will redact social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that some of the submitted information is exempted from disclosure under sections 552.101, 552.130, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have marked information in the submitted information that is not responsive to the instant request. The department need not release non-responsive information in response to this request, and this ruling will not address the public availability of that information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹Section 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.

Code § 552.101. Section 552.101 encompasses the common-law right of privacy, which protects information if it (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* include 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 are 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 find that the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information you have marked under section 552.101 of the Government Code pursuant to common-law privacy.

Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.²

You seek to withhold the names and identification numbers of undercover narcotics officers. Section 552.151 of the Government Code provides as follows:

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 represent to this office that the release of the names and identification numbers of the undercover narcotics officers would cause the officers to face a substantial threat of physical harm. Based on your representation, we find that the department has demonstrated that release of the information at issue would subject the officers to a substantial threat of physical harm. We therefore conclude that the department

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

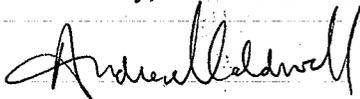
must withhold the names and identification numbers of the undercover narcotics officers, which you have marked, under section 552.151 of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy, the Texas license plate number you have marked under section 552.130 of the Government Code, and the names and identification numbers of undercover police officers, which you have marked, under section 552.151 of the Government Code. The remaining responsive 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, 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,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 379984

Enc. Submitted documents

c: Requestor
(w/o enclosures)