



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 29, 2010

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

OR2010-11369

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# 388641.

The Baytown Police Department (the "department") received a request for a specified incident report. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.147 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 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 or 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. *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 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We note that common-law privacy is a personal right that lapses at death and

does not protect information relating only to a deceased individual. See *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Upon review, we agree the information you have marked is highly intimate or embarrassing and of no legitimate concern to the public. Therefore this information is subject to common-law privacy and must be withheld under section 552.101 of the Government Code.

Next, you claim the social security numbers you have marked are excepted from disclosure under section 552.147 of the Government Code. This section provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. Accordingly, the department may withhold the social security numbers you have marked pursuant to section 552.147 of the Government Code.<sup>1</sup>

In summary, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy. The department may withhold the information you have marked under section 552.147. 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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/em

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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.

Ref: ID# 388641

Enc. Submitted documents

c: Requestors  
(w/o enclosures)