



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2010

Ms. Sylvia McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2010-12727

Dear Ms. McClellan:

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# 391149 (DPD Request No. 2010-5196).

The Dallas Police Department (the "department") received a request for thirty offense reports. You state twenty-seven offense reports have been released to the requestor. You claim that portions of the submitted information 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 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 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 some kinds of medical information or information indicating disabilities or specific illnesses is protected by 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 conclude that the information you have marked in report number 0280480-W is highly intimate or embarrassing and of no legitimate public concern. Thus, the department must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

Section 552.108 of the Government Code 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked in report number 0147673-W is related to a pending criminal case. Based on this representation and our review, we conclude that section 552.108(a)(1) is applicable in this instance. *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). Thus, the department may withhold the information you have marked in report number 0147673-W under section 552.108(a)(1).

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.” *Id.* § 552.130(a)(1), (2). Thus, the department must withhold the Texas motor vehicle record information you have marked in report number 0748238-T pursuant to section 552.130 of the Government Code.¹

In summary, the department must withhold the information you have marked in report number 0280480-W under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold the information you have marked in report number 0147673-W under section 552.108(a)(1) of the Government Code. The department must withhold the information you have marked in report number 0748238-T under section 552.130 of the Government Code. As you raise no further exceptions against disclosure, the remaining information must be released.

¹Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers and Texas license plate numbers under section 552.130, without the necessity of requesting an attorney general decision.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 391149

Enc. Submitted documents

c: Requestor
(w/o enclosures)