



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2010

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

OR2010-13129

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# 392126.

The Baytown Police Department (the "department") received a request for information pertaining to a specified incident. You indicate you have released some of the requested information. You state you will redact social security numbers and partial social security numbers pursuant to section 552.147(b) of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 of the Government Code encompasses the common-law right of 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668

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. *See* Gov't Code § 552.147(b).

(Tex. 1976). This office has found 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 agree the information you have marked, in addition to the information we have marked, is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must generally withhold this information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, that the requestor may be the authorized representative of the individual whose information is at issue in the submitted information. If this requestor is acting as the authorized representative of the individual at issue, she has a right of access to the individual's marked information pursuant to section 552.023. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). To the extent the requestor has a right of access under section 552.023 to the individual at issue's marked information, the department must release the marked information to this requestor. To the extent this requestor is not the authorized representative of the individual whose information is at issue, she does not have a right of access under section 552.023 to the marked information, and the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note the remaining information contains Texas motor vehicle record information subject to section 552.130 of the Government Code.² 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). Accordingly, the department must generally withhold the information we have marked under section 552.130 of the Government Code. However, section 552.130 is based on privacy principles. Thus, if the requestor is acting as the authorized representative for the individual whose information we marked, then the requestor has a right of access to this information. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is acting as the authorized representative of the individual at issue, the information marked under section 552.130 must be released to this requestor. If the requestor is not acting as the authorized representative of the

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

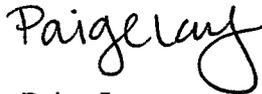
individual at issue, the department must withhold the information we have marked under section 552.130 of the Government Code.³

In summary, to the extent this requestor does not have a right of access under section 552.023 of the Government Code, the department must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy and 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 392126

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination authorizing all governmental bodies to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.