



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 8, 2011

Captain Greg Minton
Assistant Chief
City of Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2011-08165

Dear Captain Minton:

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# 422083.

The City of Leander Police Department (the "department") received a request for "records of suicide and suicide attempts" during a certain time period. You state that the department has made some of the requested information available to the requestor with social security numbers, vehicle information, and driver's license numbers redacted.¹ See Gov't Code § 552.147(b) (governmental body may redact social security number without requesting a decision from this office under the Act); Open Records Decision No. 684 (2009) (previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without necessity of requesting attorney general opinion). You claim the remaining responsive information is excepted from disclosure under sections 552.101 and 552.108 of the Texas Government Code. We have considered your arguments and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹You state you notified the requestor of these redactions pursuant to section 552.1175(h) of the Government Code. We note, however, that governmental bodies must only comply with section 552.1175(h) when redacting information pursuant to subsections 552.1175(b) and (f). Because you did not redact information pursuant to those subsections, section 552.1175(h) is not applicable in this instance.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Tex. Att'y Gen. ORD-499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 type 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You seek to withhold Attachment D1 in its entirety on the basis of common-law privacy. However, although the requestor knows the nature of the incidents at issue, you have not demonstrated, nor does it otherwise appear, the requestor knows the identities of the individuals involved. Therefore, you have not established Attachment D1 is confidential in its entirety under common-law privacy. Nevertheless, the department must withhold the identifying information of the individuals involved, including the home addresses of the individuals, that we have marked under section 552.101 in conjunction with common-law privacy.³ The remaining information is not highly intimate or embarrassing; therefore, the remaining information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

You assert Attachment D2 is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Attachment D2 relates to a pending criminal investigation. Based on this representation, we conclude the release of Attachment 2 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. Thus, with the exception of the

³We have marked the addresses in Attachment D1 that we understand to be the home addresses of the individuals whose information is at issue.

basic front-page offense and arrest information, the department may withhold Attachment D2 under section 552.108(a)(1).⁴

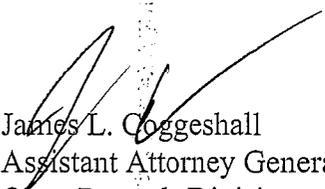
Finally, we note some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.⁵ Gov't Code § 552.130(a)(1), (2). We note Open Records Decision No. 684 does not permit a governmental body to withhold a vehicle identification number without requesting a ruling from this office. Thus, the department must withhold the Texas motor vehicle record information we have marked under section 552.130.

To conclude, the department must withhold the information we have marked in Attachment D1 under section 552.101 in conjunction with common-law privacy and the information we have marked under section 552.130 of the Government Code. With the exception of basic information, the department may withhold Attachment D2 under section 552.108(a)(1) of the Government Code. The department must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

⁴As we are able to resolve this matter under section 552.108, we do not address your other arguments to withhold this information.

⁵The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

Ref: ID# 422083

Enc. Submitted documents

c: Requestor
(w/o enclosures)