



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2011

Mr. Jose Hernandez
Records Supervisor
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539

OR2011-18748

Dear Mr. Hernandez:

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# 445371 (Reference No. 30438).

The Edinburg Police Department (the "department") received a request for information related to a specified case number. You claim some of the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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. You claim section 552.101 in conjunction with common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information also are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). We conclude some of the information at issue, which we have marked, is highly intimate or embarrassing and a matter of no legitimate public interest.

Therefore, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. We conclude the remaining information at issue is not highly intimate or embarrassing and a matter of no legitimate public interest and may not be withheld on privacy grounds under section 552.101.

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 have marked the information the department seeks to withhold under section 552.108(a)(1). You indicate release of the marked information would interfere with a pending investigation. Based on your representation, we conclude 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) (court delineates law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note 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). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic offense and arrest information, including a detailed description of the offense from the narrative portion of the police report, even if the information does not literally appear on the front page of the report. The department may withhold the rest of the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130(a)(1). We agree the department must withhold the driver’s license information you have marked, along with the additional information we have marked, under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act.¹ *Id.* § 552.147(a). We agree the department may withhold the social security number you have marked under section 552.147 of the Government Code.

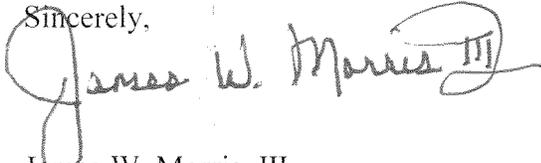
¹We note section 552.147(b) authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

In summary, the department (1) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) may withhold the information you have marked under section 552.108(a)(1) of the Government Code, except for basic information under section 552.108(c); (3) must withhold the marked driver's license information under section 552.130 of the Government Code; and (4) may withhold the marked social security number under section 552.147 of the Government Code. The department must release the rest of the submitted information.²

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 W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bs

Ref: ID# 445371

Enc: Submitted documents

c: Requestor
(w/o enclosures)

²We note the department would ordinarily be required to withhold some of the remaining information to protect the privacy of the requestor's clients. The requestor has a right of access, however, to his clients' private information. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Should the department receive another request for these same records from a person who would not have a right of access to the clients' private information, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.