



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 1, 2012

Mr. John D. Lestock  
Assistant City Attorney  
City of Paris  
P.O. Box 9037  
Paris, Texas 75461-9037

OR2012-01636

Dear Mr. Lestock:

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# 444197.

The Paris Police Department (the "department") received a request for "any and all document[s] regarding" three named individuals from "2000 to present." You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 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. This section 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. The type of information considered highly 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 also found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See Open*

Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). In addition, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. In part, the present request requires the department to compile unspecified law enforcement records concerning the individuals named in the request, thus implicating those individuals' right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup> We note, however, that you have submitted reports which do not list the named individuals as suspects, arrestees, or criminal defendants. This information does not implicate the privacy interests of the named individuals. Accordingly, we address your arguments for this information.

You assert that report number 200010386 is excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state report number 200010386 pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to report number 200010386.

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*. *See* 531 S.W.2d at 186-87. Therefore, with the exception of basic information, the department may withhold report number 200010386 under section 552.108 of the Government Code.

As previously noted, section 552.101 of the Government Code encompasses the doctrine of common-law privacy. Additionally, as we also noted above, the Texas Supreme Court discussed the common-law privacy test requirements in the *Industrial Foundation* decision. In that decision, the Texas Supreme court determined that the types of information considered highly intimate or embarrassing included information relating to sexual assault,

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683-685. Thus, the information we have marked in report numbers 200134901 and 200136613 is highly intimate or embarrassing and is of no legitimate public interest. Therefore, the information we have marked in report numbers 200134901 and 200136613 is confidential under common-law privacy, and the department must withhold it under section 552.101 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 an agency of this state or another state or country is excepted from public release.<sup>2</sup> See Gov't Code § 552.130). Upon review, we find portions of the remaining information consist of motor vehicle record information. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records that list the named individuals as suspects, arrestees, or criminal defendants, the department must withhold that information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the department may withhold report number 200010386 under section 552.108(a)(2) of the Government Code. The information we have marked in report numbers 200134901 and 200136613 is confidential under common-law privacy, and the department must withhold it under section 552.101 of the Government Code. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>3</sup>

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

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

<sup>3</sup>We note the remaining information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. See Gov't Code § 552.147(b).

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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/dls

Ref: ID# 444197

Enc. Submitted documents

c: Requestor  
(w/o enclosures)