



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 15, 2006

Ms. Sandra Gentry  
Administrative Support II  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2006-06337

Dear Ms. Gentry:

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# 251955.

The Baytown Police Department (the "department") received a request for information pertaining to a motor vehicle accident, including any videotapes and photographs. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes accident report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor has provided the required information. Thus, under section 550.065(c)(4), the department must release unredacted copies of the submitted accident reports.

We next address your claim under section 552.101 of the Government Code. This section excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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 (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).

We have reviewed the information that you have highlighted in yellow and agree that some of it is protected under common-law privacy. We have marked this information that the department must withhold under section 552.101 in conjunction with common-law privacy. However, we find that there is a legitimate public interest in the remainder of this information, and it is therefore not protected by common-law privacy and may not be withheld under section 552.101 on that basis.

We next address your claim under section 552.130 of the Government Code. This section excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. Upon review, we agree that the department must withhold under section 552.130 the Texas motor vehicle record information you have highlighted in pink.

We also note that the information at issue includes insurance policy numbers that are subject to section 552.136 of the Government Code.<sup>1</sup> This section states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. The department must, therefore, withhold the insurance policy numbers that we have marked under section 552.136.

Lastly, you claim that the green highlighted social security numbers and partial social security numbers must be withheld under section 552.147 of the Government Code. Section 552.147 provides that "[t]he social security number of a living person is excepted

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

from” required public disclosure under the Act. *Id.* § 552.147(a). Upon review, we agree that the department must withhold under section 552.147 the social security numbers and partial social security numbers that you have highlighted in green.<sup>2</sup>

In summary, the department must (1) release unredacted copies of the accident reports pursuant to section 550.065(c)(4) of the Transportation Code; (2) withhold the private information that we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (3) withhold the Texas motor vehicle record information you have highlighted in pink in accordance with section 552.130 of the Government Code; (4) withhold the insurance policy numbers we have marked under section 552.136 of the Government Code; (5) withhold the social security numbers and partial social security numbers that you have highlighted in green pursuant to section 552.147 of the Government Code; and (6) release the remaining submitted information to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll

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<sup>2</sup>We note that section 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 under the Act.

free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 342 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/eb

Ref: ID# 251955

Enc. Submitted documents

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(w/o enclosures)