



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2009

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

OR2009-11568

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# 352755.

The Baytown Police Department (the "department") received a request for a specified incident report. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.147 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." 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 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. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure. *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 that the information you have marked in yellow must generally be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

We note, however, that the requestor may be an authorized representative of the individual whose right to privacy is involved. Section 552.023(a) provides that “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” In the event that the requestor is that individual’s authorized representative, then she has a special right of access to this private information under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a). If the requestor has a right of access under section 552.023, then the department may not withhold any of the information in the submitted report on privacy grounds under section 552.101. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the requestor is not the individual’s authorized representative, then the department must withhold the information you have marked in yellow under section 552.101 in conjunction with common-law privacy.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.¹ We understand you to claim that the numbers you have marked in green are partial social security numbers. Accordingly, the department may withhold the information you have marked in green pursuant to section 552.147 of the Government Code.

In summary, if the requestor does not have a right of access to the information pursuant to section 552.023 of the Government Code, then the department must withhold the information you have marked in yellow under section 552.101 in conjunction with common-law privacy. The department may withhold the social security numbers you have marked in green under section 552.147 of the Government Code. The department must release the remaining information to the requestor.

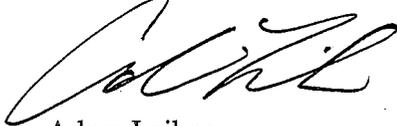
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹We 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.

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Leiber', written in a cursive style.

Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 352755

Enc. Submitted documents

c: Requestor
(w/o enclosures)
