



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 21, 2009

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

OR2009-11767

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# 353320.

The Baytown Police Department (the "department") received a request for all records pertaining to 23 specified complaints. You claim that portions of the requested information are 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, and you have indicated, that you have submitted information which is not responsive to the present request. This ruling does not address the public availability of the information you have marked as non-responsive, as well as the additional page we have marked as non-responsive, and you need not release such information in response to the request.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007(c) provides as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Incident report number 1995-30564 involves juvenile delinquent conduct occurring after September 1, 1997. None of the exceptions in section 58.007 appears to apply. Therefore, incident report number 1995-30564 is confidential pursuant to section 58.007(c) of the Family Code and the department must withhold it under section 552.101 of the Government Code.

You assert that the remaining information you have marked in yellow is excepted from disclosure under section 552.101 in conjunction with common-law privacy. Common-law privacy 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 under common-law privacy. *See* Open Records Decision 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree that a portion of the remaining information, which we have marked, is confidential and the department must withhold this information under section 552.101 in conjunction with common-law privacy. However, you have failed to demonstrate how the remaining information you have marked is highly intimate or embarrassing and of no legitimate public concern. Accordingly, you may not withhold the remaining information you have marked under section 552.101 in conjunction with common-law privacy.

You assert that the portions of the remaining information you have marked in pink are excepted from disclosure under section 552.130 of the Government Code, which provides that 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. Gov't Code § 552.130(a)(1), (2). We agree that the department must withhold the Texas motor vehicle record information you have marked in pink in incident report numbers 1992-30994, 1993-43559, 1998-15094, and 2002-50359 under section 552.130 of the Government Code.

We note that incident report number 1993-43559 contains an insurance policy number.<sup>1</sup> Section 552.136(b) provides 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." The department must withhold the insurance policy number we have marked under section 552.136 of the Government Code.

You claim the portions of the remaining information you have marked in green constitute social security numbers for purposes of section 552.147 of the Government Code, which provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Accordingly, the department may withhold the information you have marked in green pursuant to section 552.147 of the Government Code.<sup>2</sup>

In summary, the department must withhold: (1) incident report number 1995-30564 under section 552.101 in conjunction with section 58.007 of the Family Code; (2) the information we have marked under section 552.101 in conjunction with common-law privacy; (3) the Texas motor vehicle record information you have marked in pink under section 552.130; and (4) the insurance policy number we have marked under section 552.136. The department may withhold the information you have marked in green under section 552.147. The remaining information must be released 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.

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

<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.

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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 353320

Enc. Submitted documents

c: Requestor  
(w/o enclosures)