



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2009

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

OR2009-16344

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# 361654.

The Baytown Police Department (the "department") received a request for all records related to the requestor. You state that some of the requested information is being released to the requestor. You claim that the submitted 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.

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 exception encompasses section 261.201(a) of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Chapter 261 governs the investigation of reports of child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Although you raise section 552.101 in conjunction with section 261.201 for report number 2006-23444, you have failed to demonstrate how this report, which pertains to an aggravated assault of an adult, was used by the department in an investigation of alleged child abuse or neglect under chapter 261. Thus, the department may not withhold report number 2006-23444 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 also encompasses the common-law right of privacy, which protects information if it (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. In addition, 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 Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked in yellow, in addition to the information we have marked, is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

You have marked a portion of the remaining information 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. *Id.* § 552.130(a)(1), (2). We note this exception protects personal privacy. Therefore, because the requestor has a right of access to his own private information under section 552.023 of the Government Code, the department may not withhold the requestor’s Texas motor vehicle information, which we have marked for release, under section 552.130. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). However, we agree that the department must withhold the remaining information you have marked in pink under section 552.130 of the Government Code.

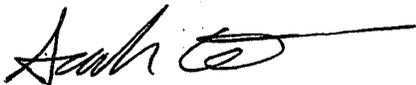
You have marked in green portions of the remaining information you assert are subject to section 552.147 of the Government Code. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.¹ *Id.* § 552.147. Therefore, the department may withhold the social security numbers you have marked in green under section 552.147 of the Government Code.

In summary, the department must withhold the information you have marked in yellow, in addition to the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the Texas motor vehicle record information you have marked in pink, except where we have marked for release, under section 552.130 of the Government Code. The department may withhold the social security numbers you have marked in green under section 552.147 of the Government Code. The remaining information must be released.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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/jb

¹Section 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. *See* Gov’t Code § 552.147(b).

²The requestor has a special right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a). Because such information may be confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

Ref: ID# 361654

Enc. Submitted documents

c: Requestor
(w/o enclosures)