



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 18, 2010

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

OR2010-03873

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# 373080.

The Baytown Police Department (the "department") received a request for a copy of case #09-43965. You state you will redact the marked social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 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 "[i]nformation considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. The relevant language of section 58.007 of the Family Code reads as follows:

(c) 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;

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<sup>1</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.

(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, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as the term is defined in Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

- (1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and
- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). For purposes of section 58.007, a "child" is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2).

We find that the submitted report involves allegations of juvenile delinquent conduct that occurred after September 1, 1997 and this information would ordinarily be confidential pursuant to section 58.007 of the Family Code. However, section 58.007(e) allows for the review or copy of juvenile law enforcement records by a child's parent or guardian. *See id.* § 58.007(e). In this instance, the requestor is the guardian of one of the juveniles involved. As such, the requestor has a right to inspect juvenile law enforcement records concerning her child pursuant to section 58.007(e). *See id.* § 58.007(e). Section 58.007(j) provides, however, that any personally identifiable information concerning another juvenile suspect, offender, victim, or witness must be redacted. *See id.* § 58.007(j)(1). Thus, the department must withhold the identifying information of the other juvenile offender, which you have marked, as well as the identifying information of the juvenile victim, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1). Section 58.007(j) also states a governmental body must redact any information that is

excepted from disclosure under the Act. *See id.* § 58.007(j)(2). Accordingly, we will address your remaining arguments against disclosure.

Section 552.101 of the Government Code 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* include 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 confidential 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 that the information we have marked is highly intimate or embarrassing and not of legitimate public interest. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information you have marked is of legitimate public interest. Therefore, the department may not withhold any of the remaining information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the Texas motor vehicle record information you have marked under section 552.130.

Section 552.136 of the Government Code 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."<sup>2</sup> Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Accordingly, the department must withhold the insurance policy number we have marked under section 552.136.

In summary, (1) the department must withhold the identifying information of the other juvenile offender, which you have marked, as well as the identifying information of the juvenile victim, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1); (2) the department must withhold the information we

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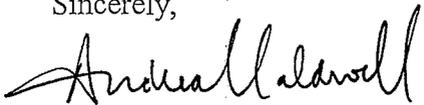
<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) the department must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code and the insurance policy number we have marked under section 552.136 of the Government Code.<sup>3</sup> The remaining information must be released to this requestor.<sup>4</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 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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/cc

Ref: ID# 373080

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and Texas license plate numbers under section 552.130 of the Government Code and insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>4</sup>We note the requestor has a special right of access to the information being released. *See* Fam. Code § 58.007(e). If the department receives another request for this particular information from a different requestor, then the department should again seek a ruling from this office.