



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2010

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

OR2010-07509

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# 380411.

The Baytown Police Department (the "department") received a request for the police reports and 9-1-1 call recordings pertaining to the following specified incidents: two incidents in which the requestor called 9-1-1 from a specified address; two incidents in which the requestor reported assault by his wife; one incident in which the requestor called for an ambulance; and one incident in which the requestor's father called police. You claim the submitted report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you only submitted the police report pertaining to one incident. We assume to the extent information responsive to the remaining portions of the request existed when the department received the request for information, you have released it to the requestor. If not, then you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

Except as provided by Section 261.203, the 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). The submitted incident report pertains to the department's investigation of a disturbance between two adults. You have not explained how the submitted report was actually used or developed by the department in any investigation of "abuse" or "neglect" under chapter 261 of the Family Code. *See id.* §§ 261.001(1) (defining "abuse" for purposes of chapter 261), .001(4) (defining "neglect" for purposes of chapter 261). Furthermore, you have not provided a representation from any other investigating agency that these records were used or developed in a child abuse or neglect investigation by that agency. Accordingly, you have failed to demonstrate how this report is confidential under section 261.201, and it may not be withheld on that basis. The social security numbers you marked may be withheld under section 552.147 of the Government Code.¹ As you raise no further exceptions to disclosure, the remaining information must be released.

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

¹Section 552.147(b) 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. Gov't Code § 552.147(b).

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,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long horizontal flourish extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 380411

Enc. Submitted documents

cc: Requestor
(w/o enclosures)