



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 11, 2012

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

OR2012-07060

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# 454120.

The Baytown Police Department (the “department”) received six requests from the same requestor for six specified department reports. You state report number 2012-7910 has been released to the requestor. You state you will redact social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim 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.

Initially, we note you have marked a portion of the submitted information as not responsive to the present request. This ruling does not address the public availability of the information marked as non-responsive, and you need not release such information in response to the request.

Next, we note report numbers 2012-3418, 2011-38467, and 2011-38365 were the subject of a previous request for a ruling by the department, in response to which this office issued Open Records Letter No. 2012-05862 (2012). In that decision, we ruled the department must withhold marked portions of the submitted information under section 552.101 of the

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<sup>1</sup>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. Gov’t Code § 552.147(b).

Government Code in conjunction with section (1) 58.007(j)(1) of the Family Code, (2) section 261.201(a)(1) of the Family Code, (3) section 261.201(1)(3) of the Family Code, and (4) common-law privacy. You do not indicate there has been a change in the law, facts, and circumstances on which the prior ruling was based. We therefore conclude the department may rely on Open Records Letter No. 2012-05862 as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Therefore, the department must continue to withhold report numbers 2012-3418, 2011-38467, and 2011-38365 in accordance with Open Records Letter No. 2012-05862.<sup>2</sup> We will address your arguments against the release of information not encompassed by Open Records Letter No. 2012-05862.

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. Section 552.101 of the Government Code 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. 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 also found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked in report number 2012-4806 is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must withhold the information you have marked in report number 2012-4806 under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides that information related to a motor vehicle operator’s license or driver’s license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Upon review, we agree the department must withhold the information you have marked in report number 2011-28460 under section 552.130 of the Government Code.

In summary, the department may continue to rely on Open Records Letter No. 2012-05862 as a previous determination and must withhold report numbers 2012-3418, 2011-38467,

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<sup>2</sup>As we are able to make this determination, we do not address your arguments against disclosure of the information subject to Open Records Letter No. 2012-05862.

and 2011-38365 in accordance with that ruling. The department must withhold the information it has marked in report number 2012-4806 under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information it has marked in report number 2011-28460 under section 552.130 of the Government Code. The remaining information must be released.<sup>3</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,



Jessica Marsh  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 454120

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the information being released contains confidential information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person requests information concerning himself). As such information would be confidential with respect to the general public, if the department receives another request for this information from a different requestor it must again seek a ruling from this office.