ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 11, 2009

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

OR2009-01821

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# 338424.

The Baytown Police Department (the "department") received a request for a specified police report. You claim that portions of the submitted report are excepted from disclosure under sections 552.101 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 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 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). 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 is protected by 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 conclude the department must withhold the information you have highlighted in yellow under section 552.101 of the Government Code in conjunction with common-law privacy.

You claim the social security numbers you have highlighted in green are excepted from disclosure under section 552.147 of the Government Code. This section provides "[t]he

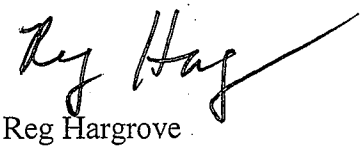
social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the department may withhold the green-highlighted social security numbers under section 552.147.[1]

In summary, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold the information you marked under section 552.147 of the Government Code. The remaining information must be released to the requestor.[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 at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 338424

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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[1]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]We note that the requestor has a special right of access to her own Texas motor vehicle registration information being released in this instance. *See* Gov't Code §§ 552.023, .130. Therefore, in the event the department receives another request for this information from someone without such a right of access, the department must against ask this office for a ruling.