



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

January 31, 2013

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

OR2013-01817

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# 478841.

The Baytown Police Department (the "department") received six requests from the same requestor for six specified police reports. You state the department will redact full and partial social security numbers from the submitted information pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You indicate you have released four of the requested reports. You claim the remaining submitted reports are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. Section 552.101 encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication

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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).

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 established. *Id.* at 681-82. The type of information considered intimate or 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 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).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, offense report 2011-14873 reveals the requestor knows the identity of the individual involved as well as the nature of the information at issue in that report. Therefore, withholding only the individual's identity or certain details of the incident from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold offense report 2011-14873 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Although you also seek to withhold report number 2011-39658 in its entirety, you have not demonstrated, nor does the report reflect, a situation in which the entire report must be withheld on the basis of common-law privacy. However, we find portions of report number 2011-39658 are highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold the portions of information you have marked, in addition to the information we have marked, in report number 2011-39658 under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions to disclosure are raised, the department must release the remainder of report number 2011-39658.

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,

A handwritten signature in dark ink, consisting of several overlapping, sweeping strokes that form a cursive-style name.

Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 478841

Enc. Submitted documents

c: Requestor  
(w/o enclosures)