



March 22, 1999

Ms. Barbara Heptig  
Assistant City Attorney  
City of Arlington  
P.O. Box 231  
Arlington, Texas 76004-0231

OR99-0780

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122990.

The Arlington Police Department (the "department") received a request for the complete file related to an assault investigation. You have made the bulk of the information available to the requestor, except for the photographs of the victim's reported injuries, which you contend must be withheld from public disclosure pursuant to section 552.101 of the Government Code in conjunction with the common-law right of privacy. We have considered the exception you claim and reviewed the submitted information.

You argue that the photographs are exempt from disclosure in their entirety because the photographs could reveal highly intimate or embarrassing facts concerning the subject of these photos. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The common-law right to privacy, incorporated into the Open Records Act by section 552.101, protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person *and* the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 262 (1980), this office stated that information about a patient's injury or illness might be protected under common-law privacy if such injury or illness relates to drug overdoses, acute alcohol intoxication, gynecological or obstetrical illnesses, convulsions and seizures, or emotional and mental distress. When the injury or illness falls within a protected category, we do not believe such information should be released. The photographs do not fall within any protected category outlined in Open Records Decision No. 262 (1980). For these reasons, the department must release the requested photographs.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

*David Van Brunt Price*  
David Van Brunt Price  
Assistant Attorney General  
Open Records Division

DVP\nc

Ref: ID# 122990

Enclosures: Submitted documents

cc: Mr. Doug Tucker  
Crawford & Company  
1200 Summit Avenue #130  
Fort Worth, Texas 76102  
(w/o enclosures)