



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2009

Mr. Paul F. Wieneskie
Attorney at Law
204 South Mesquite
Arlington, Texas 76010

OR2009-03732

Dear Mr. Wieneskie:

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# 342201.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim that the requested information is 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 doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type 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. Upon review, we agree that the submitted information contains highly intimate or embarrassing information of no legitimate interest to the public. In this instance, however, the submitted report reflects that the requestor is an adoptive parent of the child who is the subject of the private information. As such, the

requestor has a special right of access to private information concerning her minor child under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (person's representative has a special right of access to information protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987). We therefore conclude that the department may not withhold the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the requested information must be released.¹

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 342201

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹Should the department receive a future request for this information from an individual other than the requestor's son or his authorized representative, the department should again seek our decision.