



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 28, 2009

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2009-07260

Dear Mr. Mann:

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# 346058 (GCA 09-0257).

The Garland Police Department (the "department") received a request for a specified incident report. You claim that the submitted 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, 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. *See 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. *See id.* at 681-82. 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. 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, the report reveals the requestor knows the identity of the individual involved as well as the nature of the information in the submitted report. Therefore, withholding only the

individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Thus, the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/eeg

Ref: ID# 346058

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>1</sup>However, we note that, under section 552.023 of the Government Code, a person's authorized representative has a special right of access to private information that would otherwise be excepted from public disclosure. See Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself or person for whom he is authorized representative). Thus, if the requestor establishes that he is an authorized representative of the person whose privacy rights are implicated by this request, then the department must release the submitted report to him. See Gov't Code § 552.229 (requiring consent to release private information under special right of access to be in writing and signed by person or person's authorized representative).