



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2009

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department/Legal Division
P.O. Box 1065
Arlington, Texas 76004-1065

OR2009-10250

Dear Mr. Reinwand:

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# 350615 (Police Dept. Reference No. 2009-05-077).

The Arlington Police Department (the "department") received a request for a specific incident report. You claim that the entire report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

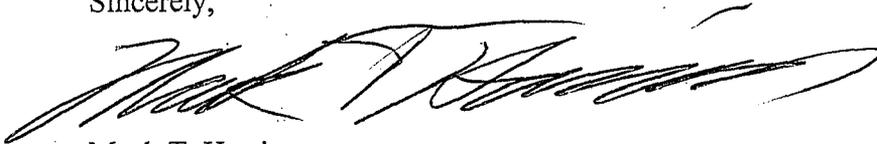
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section incorporates the doctrine of common-law privacy, which protects information that (1) contains 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. 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 medical information or information indicating disabilities or specific illnesses is 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 must be withheld. However, in certain circumstances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain reports, the entire report must be withheld to protect the individual's privacy. Here, although you seek to withhold the submitted report in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. However, we do find the submitted report contains some information that is highly intimate or embarrassing and not a matter of legitimate public concern. Therefore, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The remaining information, however, is not highly intimate or embarrassing or is of legitimate concern to the public, and therefore it must be released.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/eeg

Ref: ID# 350615

Enc. Submitted documents

c: Requestor
(w/o enclosures)