



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2009

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

OR2009-11866

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# 353317.

The Euless Police Department (the "department") received a request for information related 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.

Initially, we note the requestor has excluded Texas motor vehicle information from his request for information. Thus, the Texas motor vehicle information contained in the requested information is not responsive to the present request for information. The department need not release non-responsive information in response to this request, and this ruling will not address that 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 encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The types 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. You claim the submitted incident report should be withheld in its entirety on the basis of common-law privacy. Generally, only in certain instances, where it is demonstrated that the requestor knows the identity of the victim and the nature of certain incidents, do we require an entire report to be withheld to protect the victim's privacy. Here, the submitted incident report involves a welfare check. Although you seek to withhold this report in its entirety, you have not demonstrated, nor does the report reflect, that it is a situation in which the entire report must be withheld on the basis of common-law privacy. However, we agree that portions of the report, which we have marked, are highly intimate or embarrassing and not of legitimate public interest. Thus, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions, the remaining responsive information 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 353317

Enc. Submitted documents

c: Requestor
(w/o enclosures)