



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 8, 2009

Mr. Bryan McWilliams  
Public Safety Legal Advisor  
Assistant City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-01971

OR2009-14174

Dear Mr. McWilliams:

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# 357877.

The Amarillo Police Department (the "department") received a request for a police report and copies of items collected by the police in relation to a specified incident. You claim 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 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 common-law privacy and excepts from disclosure private facts about an individual. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information is excepted from required public disclosure by a common-law right of privacy if the information (1) 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. *Id.* at 685. 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where the requestor knows the identity of the individual at issue and the nature of certain incidents, the requested information must be withheld in its entirety to protect the

individual's privacy. In this instance, the request reveals the requestor knows the identity of the individual involved as well as the nature of the information in the submitted documents. Therefore, withholding only the individual's identity or certain details of the incident from this requestor would not preserve the subject individual's common-law right of privacy.

We note, however, the requestor is the spouse of the individual whose private information is at issue. Under section 552.023 a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests. If the requestor is the individual's authorized representative, then he has a right of access to her private information, and that information may not be withheld from this requestor under section 552.101 in conjunction with common-law privacy. If the requestor is not the individual's authorized representative, then the department must withhold the submitted information in its entirety pursuant to 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

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<sup>1</sup>In this instance, the requestor may have a special right of access under section 552.023 to the information being released. If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should resubmit the information to us and request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No.673 (2001).

Ref: ID# 357877

Enc. Submitted documents

c: Requestor  
(w/o enclosures)