



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 13, 2010

Ms. Amie Hajovsky
Assistant City Attorney
City of San Angelo
P.O. Box 1751
San Antonio, Texas 76902

OR2010-00649

Dear Ms. Hajovsky:

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# 367090.

The San Angelo Police Department (the "department") received a request for a specified incident report. You claim portions of the submitted incident report are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

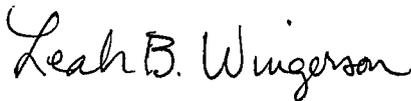
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (1) contains 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 established. *Id.* at 681-82. The submitted incident report pertains to an alleged assault by contact. You generally assert the information you have highlighted, which consists of the alleged victim's identifying information, details of the alleged assault, and a general reference to a separate incident, is protected by common-law privacy. You have not, however, submitted any comments explaining how the highlighted information is protected by common-law privacy. See Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Furthermore, although the details of

the alleged assault may be intimate or embarrassing, we find there is a legitimate public interest in this information because it relates to alleged criminal behavior. *See Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). Thus, we find you have failed to demonstrate the applicability of common-law privacy to the highlighted information. Consequently, the department may not withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. As you have claimed no other exceptions to disclosure, the submitted incident report 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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 367090

Enc. Submitted documents

c: Requestor
(w/o enclosures)