



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 9, 2010

Mr. Ronald D. Stutes  
Potter Minton  
500 Plaza Tower  
110 North College  
Tyler, Texas 75702

OR2010-08407

Dear Mr. Stutes:

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# 382191.

The City of Palestine (the "city"), which you represent, received a request for all video, audio recordings, paperwork, and packets obtained, provided, and presented by a named individual on a specified date. You state you have released the requested video and audio recordings. 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. This exception 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). 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.

In this instance, the submitted information consists of a letter presented to members of the city council at a public meeting on March 8, 2010 by a parent acting as the legal representative of his daughter, an alleged sexual assault victim. You state that this letter was used to "present the grievances of the author regarding the actions or inactions of various

governmental and private institutions” against the victim. You further state that the letter details the same subject matter that was presented in public comment by the victim’s parent-representative at an open city council meeting that was broadcast on the local cable station. Thus, you claim that the privacy rights of the alleged sexual assault victim may have been waived. Based on your representations and our review, we agree that the alleged victim’s privacy rights have been waived in this instance. *See Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 496 (1975) (action for invasion of privacy cannot be maintained where information is in public domain); *Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (law cannot recall information once in public domain). Thus, we find the submitted letter may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the submitted 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](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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 382191

Enc. Submitted documents

c: Requestor  
(w/o enclosures)