



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2010

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

OR2010-11261

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# 388010.

The Euless Police Department (the "department"), which you represent, received a request for six specified incident reports. You state that you have released four of the requested reports. You claim that the submitted reports 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information 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. *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 type 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

In this instance, the request reveals that the requestor knows the identity of the individual in incident report number 0700056788. Further, because you copied the requestor on your brief to this office that reveals the nature of the incident, the requestor now knows the nature of the conduct at issue.<sup>1</sup> Therefore, withholding only certain details of the incident from the requestor would not preserve the individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, we determine that the department must withhold report number 0700056788 in its entirety under section 552.101 in conjunction with common-law privacy. Additionally, we find that portions of call for service report number 1000030974 are intimate or embarrassing and of no legitimate public interest. Accordingly, the department must also withhold the information we have marked in call for service report number 1000030974 under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing. Therefore none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions, the remaining 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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jb

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<sup>1</sup>In the future, the department should redact such information from its brief before sending a copy to the requestor.

Ref: ID# 388010

Enc. Submitted documents

c: Requestor  
(w/o enclosures)