



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 25, 2010

Ms. Luz E. Sandoval Walker  
Assistant City Attorney  
City of El Paso  
810 Overland  
El Paso, Texas 79901

OR2010-12963

Dear Ms. Walker:

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# 391501 (2010-06-22-AG).

The El Paso Police Department (the "department") received two requests from the same requestor for information pertaining to two specified incidents. 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (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.<sup>1</sup> *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered highly intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual

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<sup>1</sup>You also assert that the submitted information is excepted under section 552.101 in conjunction with "a statutory grant of confidentiality, a judicial grant of confidentiality . . . and a constitutional right of privacy[.]" However, you have provided no demonstration of the existence of any basis, other than common-law privacy, to withhold the submitted information. Accordingly, this decision addresses only your common-law privacy claim under section 552.101. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must submit written comments demonstrating applicability of claimed exception to information at issue).

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 the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire incident report must be withheld to protect the individual's privacy. In this instance, the request and the submitted information reflect that the requestor knows the identity of the individual involved, as well as the nature of the incident investigated in incident report number 09-313080. Therefore, withholding only the subject individual's identity or certain details of this incident from the requestor would not preserve the subject individual's common-law right of privacy. Therefore, the department must withhold incident report number 09-313080 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Furthermore, we note that incident report number 09-052211 contains information that is highly intimate or embarrassing and of no legitimate public concern. Therefore, the department must also withhold the information we have marked in incident report number 09-052211 under section 552.101 in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing, and it may not be withheld on the basis of common-law privacy. As you raise no further exceptions to disclosure, the remaining information must be released to the requestor.

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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 391501

Enc. Submitted documents

c: Requestor  
(w/o enclosures)