



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2010

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2010-18342

Dear Mr. Mann:

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# 402515 (GCA10-0743 and GCA10-0770).

The Garland Police Department (the "department") received requests from two requestors. The first requestor seeks incident report number 2010R015694. The second requestor also seeks incident report number 2010R015694, as well as any reports pertaining to a specified second incident involving the same individuals that were involved in report number 2010R015694. You state the department has provided to the second requestor all information responsive to the second incident specified by that requestor. You claim the submitted incident report 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 section 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. *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. 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 report must be withheld to protect the individual's privacy.

You assert incident report number 2010R015694 must be withheld in its entirety from both requestors on the basis of common-law privacy. In the alternative, you claim the information you have marked in the report is protected by common-law privacy. In this instance, the first request and the report reflect, and you indicate, the first requestor knows the identity of the individual involved as well as the nature of the information in the report. Therefore, withholding only the individual's identity or certain details of the incident from the first requestor would not preserve the subject individual's common-law right of privacy. Accordingly, the submitted incident report must be withheld in its entirety from the first requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

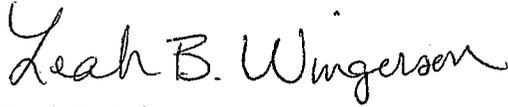
Although the second request reflects the second requestor knows the identity of the individual involved, that request does not reflect, and you have not explained, the second requestor knows the nature of the information in the report. In this instance, you have not demonstrated, nor does the report reflect, the report involves a situation in which the entire report must be withheld from the second requestor on the basis of common-law privacy. However, we agree the portions of the report you have marked are highly intimate or embarrassing and not of legitimate public interest. Accordingly, the department must withhold the information you have marked from the second requestor under section 552.101 of the Government Code in conjunction with common-law privacy. As you have not claimed any other exceptions to disclosure, the remaining information must be released to the second 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, 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,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 402515

Enc. Submitted documents

c: Requestors
(w/o enclosures)