



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2011

Ms. S. McClellan  
Assistant City Attorney  
Criminal Law and Police Section  
1400 South Lamar  
Dallas, Texas 75215

OR2011-01602

Dear Ms. McClellan:

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# 407672 (DPD Request Number: 2010-10475).

The Dallas Police Department (the "department") received a request for a specified police report. 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.

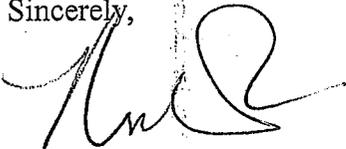
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains 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 under common-law privacy. 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, although you seek to withhold the submitted information in its

entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire report must be withheld on the basis of common-law privacy. Therefore, the submitted information may not be withheld in its entirety under section 552.101 in conjunction with common-law privacy. However, we find that portions of the submitted information, which we have marked, are highly intimate or embarrassing and of no legitimate concern to the public. We note, however, the requestor is the wife of the individual who is the subject of the submitted report. As such, the requestor may be acting as her husband's authorized representative and would have a special right of access to her husband's private information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Thus, if the requestor is acting as her husband's authorized representative, the marked information is not protected by common-law privacy and the report must be released in its entirety. If the requestor is not acting as her husband's authorized representative, the marked information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy, and 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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/vb

Ref: ID# 407672

Enc. Submitted documents

c: Requestor  
(w/o enclosures)