



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 9, 2011

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

OR2011-03286

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# 410926 (GCA 10-0990).

The Garland Police Department (the "department") received a request for the probable cause affidavit and other records pertaining to the arrest of a named individual on a specified date. You state that much of the information has been provided to the requestor, with redactions made pursuant to Open Records Decision No. 684 (2009).¹ You claim portions of the submitted information 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 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 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The types of information considered highly intimate

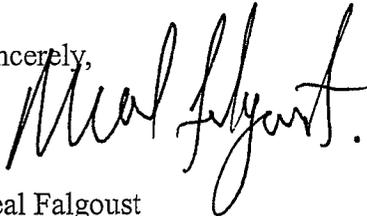
¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code and a credit card number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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. Further, this office has found information is excepted from required public disclosure under common-law privacy if it is medical information or information indicating disabilities or specific illnesses. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information we have marked is highly intimate or embarrassing and is of no legitimate concern to the public. Accordingly, the information we have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Upon further review, we find the remaining information is not highly intimate or embarrassing information of no legitimate public interest. Accordingly, 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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 410926

Enc. Submitted documents

c: Requestor
(w/o enclosures)