



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 15, 2011

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2011-16816

Dear Mr. Weir:

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# 436318.

The San Antonio Police Department (the "department") received a request for the full report for case number 11-209152. You claim 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 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 type of information considered highly 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. This office has also found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public

disclosure under common-law privacy. *See* Open Records Decision Nos. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we have marked information that is highly intimate or embarrassing and is of no legitimate public interest. Thus, the department must generally withhold this information under section 552.101 in conjunction with common-law privacy. We note, however, that the requestor may be the authorized representative of the individual to which the marked information pertains. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is the authorized representative of the individual at issue, then the requestor has a right of access to information that would ordinarily be withheld to protect the individual's privacy interests, and none of the information we marked may be withheld from the requestor under section 552.101 in conjunction with common-law privacy. *See* Gov't Code § 552.023(a); ORD 481 at 4. If the requestor is not the authorized representative of the individual at issue, the department must withhold the information we marked under section 552.101 in conjunction with common-law privacy. 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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/agn

Ref: ID# 436318

Enc. Submitted documents

c: Requestor  
(w/o enclosures)