



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 14, 2012

Mr. Ron G. MacFarlane Jr.  
The MacFarlane Firm  
3010 LBJ Freeway Suite 1200  
Dallas, Texas 75234

OR2012-02323

Dear Mr. MacFarlane:

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# 445473.

The Cedar Hill Police Department (the "department"), which you represent, received a request for three categories of information involving a specified address, including records of 9-1-1 calls. You state some of the requested information has been released. 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 information you submitted.

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 exception 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. The types of information considered to be intimate and embarrassing in *Industrial Foundation* include information related 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. *See id.* at 683.

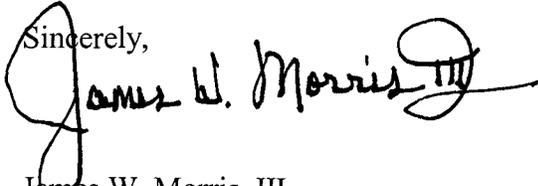
Generally, only highly intimate or embarrassing information that implicates the privacy of an individual may be withheld. We conclude some of the submitted information is highly

intimate or embarrassing and not a matter of legitimate public interest. In this instance, however, your correspondence with this office reveals the nature of the incident to which the submitted information pertains, and you have provided the requestor with a copy of that correspondence.<sup>1</sup> Under these circumstances, withholding only certain details of the incident from this requestor would not protect the privacy of the individual to whom the information pertains. Therefore, to preserve the individual's common-law right to privacy, the submitted information that identifies the individual must be withheld from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy. We have indicated the types of information the department must withhold on that basis. The rest of the submitted 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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 445473

Enc: Submitted information

c: Requestor  
(w/o enclosure)

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<sup>1</sup>We note that although a requestor is entitled to a copy of the comments a governmental body submits to this office under section 552.301(e) of the Government Code, any comments that disclose or contain the substance of the information at issue must be redacted from the requestor's copy. See Gov't Code § 552.301(e-1). Thus, in the future, you should redact such information from any copy of your comments that you send to a requestor.