



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 27, 2012

Mr. Robert E. Hager  
For City of Rowlett  
Nichols, Jackson, Dillard, Hagar & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard Street  
Dallas, Texas 75201

OR2012-04484

Dear Mr. Hager:

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# 448818 (Reference #53527).

The City of Rowlett (the "city"), which you represent, received a request for a police report concerning a specified incident, all police reports for a certain address during a specified period, and any police reports related to assaults at the same address after the period specified. 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.

Initially, we note you have submitted information that does not pertain to an assault and that falls outside of the period specified by the requestor. Thus, we find this information, which we have marked, is not responsive to the request. This ruling does not address the public availability of information that is not responsive to the request, and the city is not required to release non-responsive information.

Next, we note the city has not submitted information responsive to the request for the specified report. To the extent such information existed on the date the city received the request, we presume the city has released it. If not, the city must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if

governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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.

We understand you seek to withhold the submitted report in its entirety under common-law privacy on the basis that it involves a family violence matter. However, we note there is a legitimate public interest in the details of a criminal investigation. *See id.* at 685 (whether matter is of legitimate interest to public can be considered only in context of each particular case); *cf.* Open Records Decision Nos. 611 at 1 (1992) (family violence is a crime, not a private matter), 409 at 2 (1984) (identity of burglary victim not protected by common-law privacy). Accordingly, the city may not withhold the entire report under section 552.101 of the Government Code on that basis.

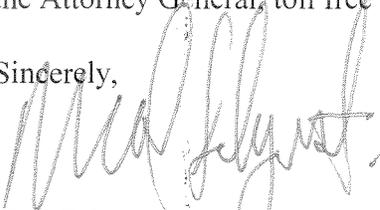
This office has concluded some kinds of medical information or information indicating disabilities or specific illnesses are protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information we have marked is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining responsive 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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/ag

Ref: ID# 448818

Enc. Submitted documents

c: Requestor  
(w/o enclosures)