



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 21, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2012-15105

Dear Ms. Kretz:

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# 465645 (PIR No. W018178).

The City of Fort Worth (the "city") received a request for incident report number 12-62447. We note you have redacted information in accordance with sections 552.130 and 552.147 of the Government Code.¹ 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. This exception encompasses common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which

¹Section 552.130 of the Government Code permits a governmental body to redact information subject to subsections 552.130(a)(1) and 552.130(a)(3) without the necessity of requesting a decision from this office. See Gov't Code § 552.130(c)-(e). Section 552.147 of the Government Code permits a governmental body to redact the social security number of a living person without requesting a decision from this office. See *id.* § 552.147(b).

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). The types of information considered to be intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* include 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. However, in certain instances where it is demonstrated 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, the requestor knows both the nature of the incident to which the submitted information pertains and the identity of the individual involved in that incident. Thus, withholding only the individual's identity or certain details of that incident from this requestor would not preserve the individual's common-law right to privacy. We therefore conclude the submitted information is confidential under section 552.101 in conjunction with common-law privacy.

However, we note the requestor is the spouse of the individual whose privacy interests are implicated and, therefore, may be the individual's authorized representative. As such, the requestor would have a right of access under section 552.023 of the Government Code to information the city would be required to withhold from the public to protect the individual's privacy. See Gov't Code § 552.023(a) (person or person's authorized representative has a special right of access to information that relates to the person and is protected from public disclosure by laws intended to protect the person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, if the requestor is the individual's authorized representative, then the submitted information must be released pursuant to section 552.023. If the requestor is not the individual's authorized representative, then the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

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,

A handwritten signature in black ink, appearing to read 'VB', followed by a horizontal line.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/akg

Ref: ID# 465645

Enc. Submitted documents

c: Requestor
(w/o enclosures)