



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 24, 2012

Ms. Linda M. Champion  
Assistant City Attorney  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR2012-17002

Dear Ms. Champion:

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# 468841.

The City of Victoria (the "city") received a request for a specified incident report. You state you will release some information to the requestor. 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 met. *Id.* at 681-82. The types of information considered intimate and 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. *See 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 submitted information reflects the requestor knows the identity of the individual involved, as well as the nature of the incident at issue. Therefore, withholding only the individual's identity or certain details of this incident from the requestor would generally not

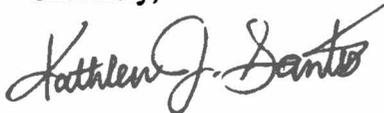
preserve the individual's common-law right to privacy. Accordingly, the city must generally withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy.

We note the submitted information reflects the requestor is the spouse of the individual whose privacy interests are at issue. Thus, the requestor may have a right of access to the submitted information as the authorized representative of his spouse. *See Gov't Code § 552.023(a)* ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); *Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the requestor is not acting as the authorized representative of his spouse, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is acting as the authorized representative of his spouse, the city may not withhold the submitted information from this requestor under section 552.101 in conjunction with common-law privacy. In this instance, the city must release the submitted information in its entirety to this requestor.<sup>1</sup>

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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

---

<sup>1</sup>Because the requestor has a special right of access to the information being released, if the city receives another request for this information from an individual other than this requestor, or the requestor's spouse, the city must again seek a decision from this office.

Ref: ID# 468841

Enc. Submitted documents

c: Requestor  
(w/o enclosures)