



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 26, 2012

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

OR2012-18920

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# 471880 (COSA No. W0010232).

The City of San Antonio (the "city") received a request for a specified incident report. 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 common-law right to 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. *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 prongs of this test must be established. *See id.* at 681–82. Common-law privacy protects the types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). Additionally, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See Open Records Decision No. 455 (1987)* (prescription drugs, illnesses, operations, and physical handicaps). Generally, only highly intimate information

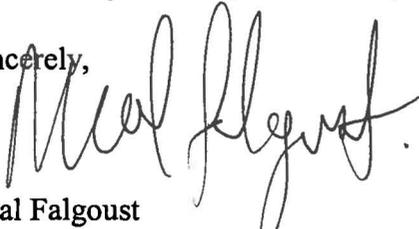
that implicates the privacy of an individual is withheld. However, in some situations, where the requestor knows the identity of the individual at issue and the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

Although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, this is a situation where the submitted information must be withheld in its entirety on the basis of common-law privacy. Upon review, however, we find portions of the submitted information, which we have marked, are highly intimate or embarrassing and of no legitimate public interest. Accordingly, this information is subject to common-law privacy. We note, however, the requestor might be the authorized representative of the individual to whom the marked information pertains. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). Thus, if the requestor is acting as the authorized representative of the individual, she has a right of access to this information pursuant to section 552.023(b), and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of the individual involved, then the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information is not highly intimate or embarrassing and the city may not withhold it under section 552.101 of the Government Code on that basis. Accordingly, the city must release the remaining information.

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# 471880

Enc. Submitted documents

c: Requestor  
(w/o enclosures)