



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 15, 1998

Ms. Kristi A. Taylor
Assistant City Attorney
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR98-3117

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 120566.

The Lewisville Police Department (the "department"), which you represent, received an open records request for "an incident report with regard to the attempted suicide of" a named individual. You contend that the requested information is protected from public disclosure pursuant to section 552.101 of the Government Code in conjunction with the common-law right of privacy.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public.¹ *Id.* at 683-85.

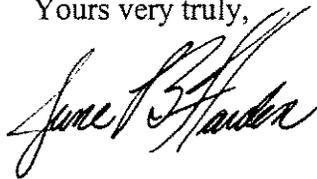
This office has previously recognized that information might implicate an individual's common-law privacy interests if it relates, for example, to a drug overdose, acute alcohol intoxication, obstetrical/gynecological illness, convulsions/seizures or emotional/mental distress. *See* Open Records Decision No. 370 (1983); *see also* Open Records Decision Nos. 343 (1982); 262 (1980). In Open Records Decision No. 422 (1984),

¹We assume for purposes of this ruling that the individual referenced in the open records request is still living. The right of privacy is purely personal and lapses upon death. *See Moore v. Charles B. Pierce Film Enterprises Inc.*, 589 S.W.2d 489 (Tex. Civ. App.--Texarkana 1979, writ ref'd n.r.e.). *See also* Attorney General Opinions JM-229 (1984); H-917 (1976).

this office concluded that the fact that an individual attempted to commit suicide was a strong indication that the individual suffered from emotional or mental distress and that information revealing that fact must be withheld from the public pursuant to the common-law right of privacy. Because the requestor in this instance is aware of the individual's identity, we conclude that the department must withhold the requested information in its entirety pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/RWP/nc

Ref.: ID# 120566

Enclosure: Submitted document

cc: Mr. Khalid Y. Hamideh
1301 Northwest Highway, Suite 212
Garland, Texas 75041
(w/o enclosure)