



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2009

Mr. Rober E. Hager
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Ackard
Dallas, Texas 75201

OR2009-01100

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# 333451.

The City of the Colony (the "city"), which you represent, received a request for all information related to two named individuals. You claim the requested 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 only submitted information related to one of the named individuals. To the extent information regarding the other named individual existed on the date the city received this request, we assume it has been released. If you have not released this information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release 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. In this instance, you claim the submitted report should be withheld in its entirety on the basis of common-law privacy. Generally only in certain instances, where it is demonstrated that the requestor knows the identity of the victim, as well as the nature of the incident, do we require the entire report to be withheld to protect the victim's privacy. Here, although you seek to withhold the submitted report in its entirety, you have not demonstrated, nor does the report reflect, a situation in which the entire report must be withheld on the basis of common-law privacy. However, we find a portion of the submitted report is intimate and embarrassing and not of legitimate public interest. Therefore, the information we have marked must be withheld under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions to disclosure for the remaining information, it 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, 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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/eeg

Ref: ID# 333451

Enc. Submitted documents

c: Requestor
(w/o enclosures)