



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 11, 2009

Ms. Eileen McPhee  
Carls, McDonald & Dalrymple, LLP  
Barton Oaks Plaza 2  
901 South Mopac Expressway, Suite 500  
Austin, Texas 78746

OR2009-01813

Dear Ms. McPhee:

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# 334654.

The City of Georgetown Police Department (the "department"), which you represent, received a request for information on three specified incidents as well as any information pertaining to two named individuals during a specified time period.<sup>1</sup> You state that you have already released some of the requested information to the requestor. You claim that a portion of 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." This section encompasses the doctrine of common-law privacy, which protects information that (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). 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. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. In this instance, however, because you copied the requestor on your brief to this office that reveals the nature

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<sup>1</sup>We note that the department asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); see also Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification).

of the incident, the requestor now knows the nature of the conduct at issue. Therefore, withholding only certain details of the incident from the requestor would not preserve the named individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, we determine that the department must withhold this individual's identity from the submitted report.<sup>2</sup> Thus, the department must withhold the identifying information we have marked under section 552.101 in conjunction with common law privacy. The remaining information must be released to the requestor.

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 at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 334654

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>In the future, the department should redact such information from its brief before sending a copy to the requestor.