



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2009

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

OR2009-01999

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# 335090 (CMcD # 1957).

The City of Georgetown (the "city"), which you represent, received a request for a specified incident report. You claim that 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.

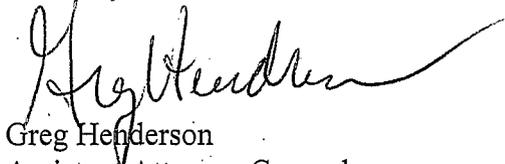
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information if it (1) contains 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). 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. We note that information relating to alleged criminal conduct is generally a matter of legitimate public interest. *See Indus. Found.*, 540 S.W.2d at 685 (whether matter is of legitimate interest to public can be considered only in context of each particular case); *cf.*

Open Records Decision Nos. 611 at 1 (1992) (family violence is a crime, not a private matter), 409 at 2 (1984) (identity of burglary victim not protected by common-law privacy). In this instance, you seek to withhold the submitted incident report in its entirety under section 552.101 in conjunction with common-law privacy. Upon review, we find that the submitted information does not reflect a situation in which the entire report must be withheld on the basis of common-law privacy. However, we find that the submitted information does contain some information that is highly intimate or embarrassing and not a matter of legitimate public interest. The city must withhold the information we have marked pursuant to section 552.101 in conjunction with common-law privacy. None of the remaining information is highly intimate or embarrassing or not of legitimate public interest, and therefore, it may not be withheld under section 552.101 on the basis of common-law privacy. As you raise no further exceptions to disclosure, 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, 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,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/jb

Ref: ID# 335090

Enc. Submitted documents

c: Requestor
(w/o enclosures)