



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 22, 2009

Mr. Paul F. Wieneskie  
Attorney at Law  
204 South Mesquite  
Arlington, Texas 76010

OR2009-05317

Dear Mr. Wieneskie:

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# 340654.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a named individual at a specified location and date. You claim that 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.

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 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 type 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. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. Although you assert the submitted report is subject to common-law privacy in its entirety, there is no indication that

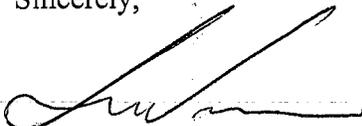
the requestor knows the nature of this incident. Accordingly, the submitted report may not be withheld in its entirety under common-law privacy. However, we agree this report contains information that is highly intimate or embarrassing and not of legitimate public interest. Accordingly, this information, which we have marked, is generally subject to common-law privacy.

We note, however, that the requestor may be an authorized representative of the individual whose right to privacy is involved. In the event that the requestor is that individual's authorized representative, then she has a special right of access to this private information under section 552.023 of the Government Code. *See Gov't Code § 552.023(a).*<sup>1</sup> If the requestor has a right of access under section 552.023, then the department may not withhold any of the information in the submitted report on privacy grounds under section 552.101. *See Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual requests information concerning himself). If the requestor is not the individual's authorized representative, then the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

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<sup>1</sup>Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

Ref: ID# 340654

Enc. Submitted documents

Requestor

(w/o enclosures)