



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 23, 2009

Mr. Paul F. Wieneskie
Attorney at Law
Attorney for Euless Police Department
204 South Mesquite
Arlington, Texas 76010

OR2009-08617

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# 347921.

The Euless Police Department (the "department"), which you represent, received a request for incident report number 0900019674. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. Section 552.101 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,

¹We note the requestor has specifically excluded from his request Texas license plate numbers and Texas driver's license numbers. Therefore, any such information is not responsive to the request for information. The department need not release non-responsive information in response to this request and this ruling will not address it.

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. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated 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 seek to withhold report number 0900019674 in its entirety, you have not demonstrated, nor does it otherwise appear, this is a situation where the entirety of the submitted information must be withheld on the basis of common-law privacy. However, we do find the report contains information that is highly intimate or embarrassing and not a matter of legitimate public concern. Thus, the department must withhold the information we have marked pursuant to section 552.101 in conjunction with common-law privacy.

We note the remaining information includes an e-mail address subject to section 552.137 of the Government Code, which excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).² Gov't Code § 552.137(a)-(c). The e-mail address in the remaining information is not specifically excluded by section 552.137(c). The department must withhold this e-mail address, which we have marked, under section 552.137, unless the owner of the address has affirmatively consented to its release.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the address has affirmatively consented to its release. The remaining information 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,

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/rl

Ref: ID# 347921

Enc. Submitted documents

c: Requestor
(w/o enclosures)