



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 31, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2009-10606

Dear Mr. Phillips:

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# 350636 (Fort Worth Request No. 3594-09).

The City of Fort Worth (the "city") received a request for incident report number 09-47106. 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 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 common-law privacy and excepts from disclosure private facts about an individual. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information is excepted from required public disclosure by a common-law right of privacy if the information (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. 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

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information that implicates the privacy of an individual is withheld. However, in certain instances, where the requestor knows the identity of the individual at issue and the nature of the incident, the requested information must be withheld in its entirety to protect the individual's privacy. You assert the report is confidential in its entirety. However, you have not demonstrated, nor does the report reflect, a situation in which all of the submitted report must be withheld on the basis of common-law privacy. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

In the alternative, you assert the information you highlighted in the report is confidential under common-law privacy. Although the highlighted information is intimate or embarrassing, this information pertains to alleged criminal activity. The public has a legitimate interest in knowing the general details of a criminal investigation and how such investigations are conducted. *See generally* *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994)); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (public's legitimate interest in community affairs is particularly sensitive and important as applied to police activity). Thus, we conclude the public generally has a legitimate interest in this information, and none of the submitted report may be withheld under section 552.101 in conjunction with common-law privacy. As you raise no other exceptions to disclosure, the submitted report 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](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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 350636

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)