



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2009

Mr. Bryan McWilliams
Assistant City Attorney
City of Amarillo
P. O. Box 1971
Amarillo, Texas 79105-1971

OR2009-17278

Dear Mr. McWilliams:

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# 368404.

The City of Amarillo (the "city") received a request for information pertaining to four specified incidents. 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 information protected by 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (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. Upon review, we find that incident number 2009-00129399 does not contain any

information that is intimate or embarrassing and of no legitimate public interest. Accordingly, incident number 2009-00129399 may not be withheld under section 552.101 in conjunction with common-law privacy. As no further exceptions are raised, incident number 2009-00129399 must be released.

However, in this instance, the submitted information reveals that the requestor knows the identity of the individual involved as well as the nature of the information in the remaining reports. Therefore, withholding only the individual's identity or certain details of the incidents from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the city must withhold the remaining reports in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, incident number 2009-00129399 must be released. The remaining reports must be withheld under section 552.101 of the Government Code 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, 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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/eb

Ref: ID# 368404

Enc. Submitted documents

c: Requestor
(w/o enclosures)