



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 2, 2010

Ms. Teresa A. Special
Senior Assistant City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2010-01578

Dear Ms. Special:

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# 369037.

The San Angelo Police Department (the "department") received a request for a specified incident report. You claim portions of the submitted information are 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. Section 552.101 encompasses common-law privacy, which protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and is of no legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of the test must be satisfied. *Id.* at 681-82. 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. Information that either identifies or tends to identify a victim of sexual assault must be withheld under common-law privacy. See Open Records Decisions Nos. 393 (1983), 339 (1982). Upon

review, we find the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, the department has failed to demonstrate how the information it has highlighted identifies or tends to identify the victim of the attempted sexual assault. Therefore, the department must only withhold the information we have marked in the submitted report pursuant to section 552.101 in conjunction with common-law privacy. 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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 369037

Enc. Submitted documents

c: Requestor
(w/o enclosures)