



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2010

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

OR2010-02509

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# 370730.

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 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 if it (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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The type of information considered intimate or 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. *See id.* at 683. Information which either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. *See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982); see also Morales v. Ellen*, 840 S.W.2d 519 (Tex.

App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). The submitted incident report pertains to a sexual assault investigation. You have highlighted portions of the report that you contend are confidential pursuant to common-law privacy. Upon review, we find that the department must withhold the identifying information of the sexual assault victim, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find that none of the information you have highlighted identifies the sexual assault victim or is otherwise confidential under common-law privacy. Thus, none of the highlighted information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions to disclosure are raised, 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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/c

Ref: ID# 370730

Enc. Submitted documents

c: Requestor
(w/o enclosures)