



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 4, 2010

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2010-03214

Dear Mr. Weir:

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# 371783 (COSA File No. 2009-4814).

The City of San Antonio (the "city") received a request for police incident report number 90-864623. You claim some of the submitted incident report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

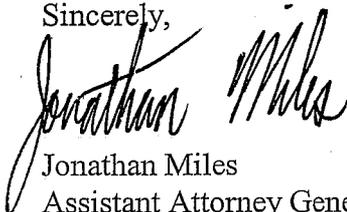
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of 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 this test must be established. *Id.* at 681-82. Although you assert some of the submitted information is protected by common-law privacy, you have not marked, or otherwise indicated, what parts of the submitted information may be protected by common-law privacy. See Gov't Code § 552.301(e)(2) (governmental body must label copy of requested information to indicate which exceptions apply to which parts of the information). Thus, we find you have failed to demonstrate the applicability of common-law privacy to the submitted

information. Consequently, the city may not withhold any of this information under section 552.101 of the Government Code in conjunction with common-law privacy. As you have claimed no other exceptions to disclosure, the submitted incident 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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/dls

Ref: ID# 371783

Enc. Submitted documents

c: Requestor  
(w/o enclosures)