



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2011

Captain Greg Minton
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2011-03906

Dear Captain Minton:

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# 411878.

The Leander Police Department (the "department") received a request for the first page of the incident reports for a specified date. You state you have released some of the requested information. You claim the submitted incident reports are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The requestor seeks first page information, also known as basic information, from the submitted incident reports. You represent you released basic information pursuant to *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston 14th Dist] 1975). Basic information includes, among other things, a detailed description of the offense. See Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You have submitted the first pages of several incident reports that do not contain a detailed description of the offense. However, the department must release basic information even if the information does not literally appear on the front page of an offense or arrest report. See 531 S.W.2d at 186-88; ORD 127. Therefore, the department must release a sufficient portion of the narratives for incident

reports LPD101641, LPD101639, LPD101637, and LPD101636 to encompass detailed descriptions of the offenses.

You seek to withhold the complete narrative of incident report LPD101638 under section 552.108(a)(1) of the Government Code. Incident report LPD101638 contains a detailed description of the offense. Thus, the narrative you seek to withhold is not responsive to the request and need not be released.

You also claim incident report LPD101640 contains information protected under common-law privacy. 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 exception encompasses 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. *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. The type of information considered highly 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. *Id.* at 683. Upon review, we find the information we marked in the narrative for incident report LPD101640 is highly intimate or embarrassing and not of legitimate public concern. Therefore, this information is protected by common-law privacy. Accordingly, in releasing the detailed description of the offense from this narrative, the department may not release the marked information.

In summary, the department must release all the basic information from the submitted incident reports, including a sufficient portion of the narratives for incident reports LPD101641, LPD101639, LPD101637, and LPD101636 to encompass detailed descriptions of the offenses. In releasing the detailed description of the offense from the narrative for incident report LPD101640, the department may not release the marked information which is protected 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eeg

Ref: ID# 411878

Enc. Submitted documents

c: Requestor
(w/o enclosures)