



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2012

Mr. Kenneth W. Findley
Assistant Chief of Police
Deer Park Police Department
2911 Center Street
Deer Park, Texas 77536-4942

OR2012-05123

Dear Mr. Findley:

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# 451095 (Log# 165).

The Deer Park Police Department (the "department") received a request for incident report 11-04105 and an event report concerning a domestic dispute on January 9, 2012. You indicate the department will release the event report to the requestor. You claim a portion of the 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 common-law right to privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. Determinations under common-law privacy must be made on a case-by-case basis. *See Open Records Decision No. 373 at 4 (1983); Indus. Found.*, 540 S.W.2d at 685 (whether matter is of legitimate interest to public can be considered only in context of each particular case). The types 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* 540 S.W.2d at 683. We have marked information in the incident report that is highly intimate or embarrassing and not of legitimate concern to the public. The department must withhold the marked information from disclosure under section 552.101 in conjunction with common-law privacy. The remaining portions of the 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, 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,



Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/eb

Ref: ID# 451095

Enc. Submitted document

c: Requestor
(w/o enclosures)