



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2013

Ms. Sol M. Cortez
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, Ninth Floor
El Paso, Texas 79901

OR2013-01432

Dear Ms. Cortez:

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# 477048.

The El Paso Police Department (the "department") received a request for the complaint report concerning a specific case. You claim the submitted information 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 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. *See 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. *See id.* at 681–82. 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. *Id.* at 683. Generally, only highly intimate or embarrassing information implicating the privacy of an individual is withheld. However, in certain situations where the requestor

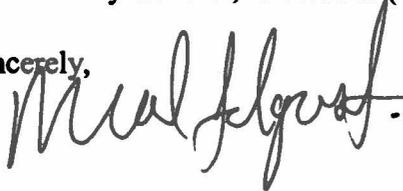
knows the identity of the individual involved, as well as the nature of certain incidents, an entire report must be withheld to protect the individual's privacy.

We find the department has failed to demonstrate this is a situation in which the entire report must be withheld in order to protect an individual's privacy. Nonetheless, we find the information you have marked, and the additional information we have marked, is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. As our ruling is dispositive, we need not address your remaining argument.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/akg

Ref: ID# 477048

Enc. Submitted documents

c: Requestor
(w/o enclosures)