



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2013

Ms. Jessica D. Richard  
Assistant City Attorney  
City of New Braunfels  
424 South Castell Avenue  
New Braunfels, Texas 78130

OR2013-13295

Dear Ms. Richard:

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# 494989.

The New Braunfels Police Department (the "department") received a request for a specified incident report. You claim that 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. This section encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 demonstrated. *See 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. Generally, only highly intimate 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, information must be withheld in its entirety to protect the individual's privacy.

In this instance, the request reveals the requestor knows the identity of the individual involved in the submitted report. We also note, you copied the requestor on your brief to this office, and that brief reveals the nature of the private information at issue.<sup>1</sup> Therefore, withholding only certain details of the incident from the requestor would not sufficiently preserve the individual's common-law right of privacy. Accordingly, the department must withhold the submitted information in its entirety 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 494989

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>In the future, the department should redact such information from its brief before sending a copy to the requestor. See Gov't Code §§ 552.301(e-1), .352(a) (person commits offense if person distributes information confidential under the Act).