



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 21, 2014

Ms. Samantha Dyal  
Counsel for the City of Schertz  
Fulbright & Jaworski, LLP  
300 Convent Street, Suite 2100  
San Antonio, Texas 78205-3792

OR2014-03293

Dear Ms. Dyal:

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# 514753.

The Schertz Police Department (the "department"), which you represent, received a request for information pertaining to three specified incidents involving the requestor. You state the department has released some information to the requestor. 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683.

Generally, only highly intimate information implicating the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the

identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. You seek to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. In this instance, the requestor knows the identity of the individual at issue as well as the nature of the incident in report number 2013-57712. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold report number 2013-57712 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, a situation exists in which the remaining report must be withheld in its entirety to protect an individual's privacy interest. We find, however, the information we have marked in this report satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the department must release the remaining report.

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,



Lana L. Freeman  
Assistant Attorney General  
Open Records Division

LLF/bhf

Ref: ID# 514753

Enc. Submitted documents

c: Requestor  
(w/o enclosures)