



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 5, 1993

Ms. Peggy Lambert  
Records Supervisor  
City of Georgetown  
Division of Police Services  
809 Martin Luther King  
Georgetown, Texas 78626

OR93-081

Dear Ms. Lambert:

The City of Georgetown has received a request for a copy of certain police offense report. Specifically, the requestor seeks offense report number 92-576, which involves an incident of indecency with a child. You have submitted the requested offense report to us for review and ask whether it is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 18570.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory or by judicial decision." The doctrine of common-law privacy protects information containing highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, provided the information is not of legitimate public concern. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 393 (1983), this office determined that information that identifies or would tend to identify a victim of a serious sexual offense may be withheld under common-law privacy. In Open Records Decision No. 339 (1982), this office held that a detailed description of an incident of aggravated sexual abuse may be withheld if it might furnish the basis for identification of the victim.

We have examined the documents submitted to us for review. Portions of the documents contain information that would identify or tend to identify the victim of a sexual assault.<sup>1</sup> Whether or not the event documented in the requested information constitutes a "serious sexual offense" or "aggravated sexual abuse," we conclude that this information meets the test for common-law privacy set forth in *Industrial Foundation* and applied in Open Records Decision Nos. 339 and 393. We note however, that in this instance the requestor is the mother of the child in question. Section 12.04 of the Family

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<sup>1</sup>You advise us that the perpetrator is now deceased. We do not address, then, whether his privacy interests are implicated in release of the requested information. See Attorney General Opinion JM-229 (1984) (the right of privacy lapses upon death).

Code establishes the rights, privileges, duties, and powers of a parent. Subsection (2) of that section affords the parent "the duty of care, control, protection, and reasonable discipline of the child." Subsection (7) grants the parent "the power to represent the child in legal action and to make other decisions of substantial legal significance concerning the child." Clearly, the mother here is properly exercising her rights and duties as a parent in requesting information that pertains to her child.

Section 3B(a) of the Open Records Act provides for a special right of access to confidential information. It states, in pertinent part:

A person or the authorized representative of a person has, beyond the right of the general public, a special right of access to and to copies of any records held by a governmental body that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests.

V.T.C.S. art. 6252-17a, § 3B(a). A mother is the authorized representative of her minor child. *See* Fam. Code ch. 12. Accordingly, she has a special right of access on behalf of her child to information concerning her child that would otherwise be protected from required public disclosure in deference to the child's privacy interests. *See* Open Records Decision No. 542 (1990) at 5. Accordingly, the requested information must be made available to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-081.

Yours very truly,



Kym Oltrogge  
Assistant Attorney General  
Opinion Committee

KKO/GCK/lmm

Ref.: ID# 18570

cc: Ms. Betty Shankle  
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Georgetown, Texas 78628