



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1995

Mr. Robert Diaz
Assistant City Attorney
City of Arlington
P.O. Box 231
Arlington, Texas 76004-231

OR95-1185

Dear Mr. Diaz:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 36468.

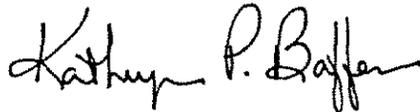
The City of Arlington received a request for a copy of a particular police incident report regarding a sexual assault. You contend that portions of the report are protected by common-law privacy and must be withheld pursuant to section 552.101 of the Government Code. You have submitted for our review two copies of the incident report at issue. One of the copies has no markings while the other copy bears your markings in red ink reflecting the portions of the report that you contend must be withheld pursuant to section 552.101.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information may be withheld under common-law privacy if it meets the criteria the Supreme Court of Texas articulated for section 552.101 in *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under *Industrial Foundation*, a governmental body must withhold information on common-law privacy grounds only if the information is highly intimate or embarrassing *and* it is of no legitimate concern to the public. In Open Records Decision No. 393 (1983), this office concluded that common-law privacy protects information that identifies or would tend to identify a victim of a serious sexual offense. *See also* Open Records Decision No. 339 (1982).

We have examined the information that you seek to withhold from public disclosure. We agree that some of it would identify or tend to identify the victim of a serious sexual offense. We have marked with blue ink on the blank copy the portions of the report that you must withhold from required public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. The remainder of the requested information must be made available to the requestor.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/rho

Ref: ID# 36468

Enclosures: Marked documents

cc: Mr. Jimmy McCann
3049 Harrell Drive
Grand Prairie, Texas 78052
(w/o enclosures)