



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 8, 1996

Mr. Jerry E. Drake, Jr.  
Assistant City Attorney  
City of Denton  
215 East McKinney  
Denton, Texas 76201

OR96-0502

Dear Mr. Drake:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28802.

The City of Denton (the "city") received an open records request for a tape recording of a 9-1-1 call in which a convenience store clerk reported being a victim of a robbery and assault with a deadly weapon. You contend that the recording implicates the privacy interests of the store clerk and thus comes under the protection of section 552.101.<sup>1</sup>

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. *See also* Open Records Decision No. 470 (1987) (evidence of severe emotional stress is protected by common-law privacy).

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<sup>1</sup>Because we resolve your request under section 552.101, we need not address here the applicability of the other exceptions you raise.

We have reviewed a copy of the tape recording and conclude that its contents clearly implicate the privacy interests of the crime victim. The city therefore must withhold the tape from the public at this time pursuant to section 552.101.

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/RWP/rho

Ref.: ID# 28802

Enclosure: Tape recording

cc: Mr. Larry C. Mullins  
Director, Dallas News Operations  
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(w/o enclosure)