



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 31, 1997

Mr. Sim W. Goodall  
Assistant Police Legal Advisor  
P.O. Box 231  
Arlington, Texas 76004-0231

OR97-0222

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103363.

The Arlington Police Department (the "department") received a request for the incident report of an alleged sexual assault. You ask whether the information is excepted from required public disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

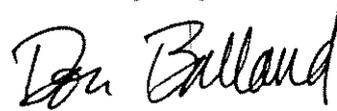
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information is excepted from required public disclosure by a common-law right of privacy if the information (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found.*, 540 S.W.2d 668.

In Open Records Decision No. 393 (1983), this office concluded that, although, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. Open Records Decision No. 393 (1983) at 2; *see also* Open Records Decision No. 339 (1982); *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, *writ denied*) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). It appears that the requestor in this case knows the identity of the alleged victim. We believe that, in this instance, withholding only

identifying information from the requestor would not preserve the victim's common-law right to privacy. We conclude, therefore, that the department must withhold the entire offense report and requested information 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,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 103363

Enclosures: Submitted documents

cc: Ms. Kelly Bowyer  
1707 Shady Glen # 1218  
Arlington, Texas 76015  
(w/o enclosures)