



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 28, 1997

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR97-0951

Dear Mr. Dempsey:

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# 105239.

The City of Garland (the "city") received a request for all paperwork involving a case of sexual assault of a particular child. You state that the city has released the Arrest report, as well as a redacted copy of the Offense/Incident Report, to the requestor. You assert that the remaining information responsive to the request is excepted by sections 552.108 or 552.101 of the Government Code. We have considered your arguments and have reviewed the information submitted.

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.

This office has found that records of criminal investigations regarding sexual abuse of children are excepted by common law privacy. Open Records Decision No. 440 (1986). 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 requested information in its entirety pursuant to section 552.101.¹

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 105239

Enclosures: Submitted documents

cc: Ms. Vonda S. Norris
129 Fairway Drive
Bullard, Texas 75757
(w/o enclosures)

¹As we resolve your request under section 552.101, we need not address your section 552.108 argument.