



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 23, 1998

Mr. Sim W. Goodall
Police Legal Advisor
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR98-0239

Dear Mr. Goodall:

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# 112396.

The Arlington Police Department (the "department") received an open records request for a "police incident report" pertaining to the sexual assault of a named individual. You state that the department has released to the requestor the front page of the requested report, with the detailed narrative deleted. You have submitted to this office for review a complete copy of the narrative and inquire as to the extent to which the narrative is protected from required public disclosure pursuant section 552.101 of the Government Code.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. of the South 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.

Clearly, information pertaining to an incident of sexual assault raises an issue of common-law privacy. Open Records Decision No. 339 (1982). In Open Records Decision No. 339 (1982), this office concluded that "a detailed description of an incident of aggravated sexual abuse raises an issue of common law privacy" and therefore any information tending to identify the assault victim should be withheld pursuant to common-law privacy. *See also* Open Records Decision No. 393 (1983).

In this instance, however, the requestor is already familiar with the identity of the assault victim. Consequently, the mere redaction of the victim's identity from the police report would not serve to protect the victim's privacy interests in the detailed description of the assault. We therefore conclude that the department must withhold, in addition to information tending to reveal the victim's identity, all details of the sexual assault. We have also identified other information in the report that must be withheld on privacy grounds. We have marked the information that must be withheld from the public pursuant to common-law privacy.

Finally, we note that the Seventy-fifth Legislature amended the Open Records Act by adding section 552.130, which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

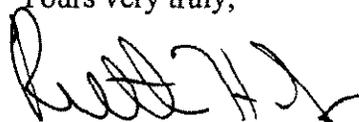
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(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

We have marked information which you must withhold pursuant to section 552.130. The department must release all remaining portions of the police report to the requestor.

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/ch

Ref.: ID# 112396

Enclosures: Marked documents

cc: Mr. Terry W. Rombough
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(w/o enclosures)