



September 28, 1999

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR99-2727

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128397.

The Dallas Police Department (the "department") received a request for four criminal reports which stem from the same incident. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Public Information Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

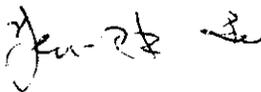
You acknowledge that you did not request a decision within ten business days and thus failed to meet your statutory burden. Gov't Code § 552.301. Thus, the requested information is presumed public. In the absence of a demonstration that the requested information is

confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978); *see also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

You claim that the information is protected by common-law privacy under section 552.101. The privacy interests of third parties overcomes the presumption that the requested information is public. Open Records Decision No. 552 at 1 (1990). Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The doctrine of 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 the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Any information tending to identify the sexual assault victims should be withheld pursuant to common-law privacy. *See* Open Records Decision No. 393 (1983). We have marked the types of identifying information that you must withhold under section 552.101 to protect the privacy of the sexual assault victims. The remaining information must be released.

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL\nc

Ref: ID# 128397

Encl: Marked documents

cc: Mr. Clyde Watts
1341 West Mockingbird Lane, Suite C100E
Dallas, Texas 75247
(w/o enclosures)