



April 4, 2000

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
The City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR2000-1290

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135553.

The Dallas Police Department (the “department”) received a request for an offense report regarding an alleged sexual assault. You assert that the report is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the documents at issue.

The responsive document reveals identifiers of the complainant. Such information is excepted from disclosure pursuant to common law privacy rights accorded under section 552.101. 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. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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) is not of legitimate concern to the public. *See id.* at 685; Open Records Decision No. 611 at 1 (1992).

This office has found that, in general, section 552.101 does not except from public disclosure the names of crime victims. *See* Open Records Decision No. 409 at 2 (1984). However, we have concluded that the names of victims of sexual assault and child victims of sexual abuse and serious sexual offenses are excepted from public disclosure under section 552.101 and common law privacy grounds. *See* Open Records Decision No. 339 at 2 (1982). Furthermore, in this case, it appears that the requestor knows the identity of the alleged victim. Therefore, 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 pursuant to section 552.101. *See* Open Records Decision No. 393 (1983) (where identifying information was "inextricably intertwined" with remainder of report, report was denied in its entirety). Because section 552.101 is dispositive, we need not address your section 552.108 claim.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us. Therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/cwt

Ref: ID#135553

Encl. Submitted documents

cc: Ms. Janice Allen
2417 Parsons Street
Dallas, Texas 75215
(w/o enclosures)