



December 7, 2001

Mr. Steven D. Monté  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
2014 Main Street, Room 501  
Dallas, Texas 75201-5203

OR2001-5727

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# 155834.

The City of Dallas Police Department (the “department”) received a request for offense report number 0718253-K. 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.

Section 552.101 of the Government Code excepts from disclosure information that is “considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Included within this exception is information protected under the common law right to privacy. The doctrine of common-law privacy protects information if: (1) it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person, and (2) the public has no legitimate interest in it. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have previously concluded that a sexual assault victim has a common-law privacy interest that prevents disclosure of information that would identify her. *See 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). In *Open Records Decision No. 393* (1983), this office concluded that because the identifying information of a sexual assault victim was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. *Open Records Decision No. 393 at 2* (1983); *see 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); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld), Open Records Decision No. 339 (1982). You indicate that the requested information pertains to a sexual assault case and that the requestor is the insurer for the family of the sexual assault victim. Therefore, it appears that the requestor in this case knows the identity of the alleged sexual assault victim. Consequently, we believe that withholding only the identifying information from the requestor would not preserve the victim's common law right of privacy, and we conclude that the department must withhold the entire police report pursuant to section 552.101.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited 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); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

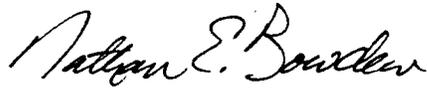
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<sup>1</sup>We note that the victim or her authorized representative has a special right of access to information that would otherwise be protected pursuant to her common law right of privacy. Gov't Code § 552.023.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/sdk

Ref: ID# 155834

Enc: Submitted documents

c: Ms. Victoria Stevenson  
1025 Gross Road  
Mesquite, Texas 75149-2184  
(w/o enclosures)