



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 25, 2009

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2009-03821

Dear Ms. Byles:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 338609.

The City of Fort Worth (the "city") received a request for all documents related to case number 07-83136. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information 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. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The information at issue relates to an allegation of sexual assault. Generally, only information tending to identify victims of serious sexual offenses is protected by common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). In those instances, however, where it is demonstrated that the requestor knows the identity of the victim, the entire report must be withheld to protect the victim's privacy.

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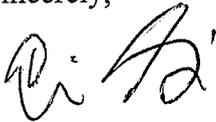
<sup>1</sup>While you also raise chapter 261 of the Family Code, you have provided no comments explaining why this chapter excepts the submitted information and you have not marked any portion of the submitted documents to indicate information that you claim is so excepted. *See* Gov't Code §§ 552.301, .302. Therefore the city may not withhold the submitted information under chapter 261.

You argue the entire report should be withheld on the basis of common-law privacy, to protect the victims' identities, because the arrestee knows the victims. However, the submitted information does not reflect and you have not given us any information to show the requestor is the representative of the arrestee or that the requestor knows the identities of the victims. Thus, you have not demonstrated the entire report must be withheld on the basis of common-law privacy. Therefore, the marked identifying information of the sexual assault victims must be withheld under section 552.101 and common-law privacy.<sup>2</sup> As you raise no further arguments against disclosure, the remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/eeg

Ref: ID# 338609

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note only information tending to identify victims of serious sexual offenses is protected by common-law privacy. As one of the victims used a pseudonym in a portion of the submitted information, the pseudonym is not identifying and may not be withheld under section 552.101 of the Government Code.