



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

Mr. Samuel D. Hawk
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2010-12175

Dear Mr. Hawk:

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# 390317 (Dallas ORR 2010-5042).

The Dallas Police Department (the "department") received a request for incident report number 0151971-X. You claim the requested information 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 submitted information.

Initially, we note one of the submitted documents, which we have marked, is not responsive to the instant request for information because it was created after the date the request was received. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by the doctrine of common-law privacy, which protects information that (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 Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included

information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* ORD 393, 339; *see also* ORD 440 (detailed descriptions of serious sexual offenses must be withheld). In this instance, the requested report involves an alleged sexual assault, and the submitted information reveals the requestor knows the identity of the alleged sexual assault victim. Thus, withholding only portions of the submitted information from the requestor would not preserve the victim's common-law right to privacy. Accordingly, to protect the victim's privacy, the submitted responsive information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. As our ruling is dispositive, we do not address your remaining argument against disclosure.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 390317

Enc. Submitted documents

c: Requestor
(w/o enclosures)