



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 24, 2010

Ms. Cara Leahy White  
Taylor Olson Adkins Sralla Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2010-17728

Dear Ms. White:

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# 401279.

The City of Southlake (the "city"), which you represent, received a request for a specified police report. You claim that the submitted 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.

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. Section 552.101 encompasses the common-law right of privacy, which protects information if it (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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate and 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 *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victim of sexual harassment was highly intimate or embarrassing information and public did not have legitimate interest in such information); ORD 440 (detailed descriptions of serious sexual offenses must be withheld). In this instance, the submitted report pertains to an alleged sexual assault and the requestor knows the identity of the alleged sexual assault victim in the report. Thus, withholding only the victim's identifying information from the requestor would not preserve the victim's common-law right to privacy. Accordingly, to protect the victim's privacy, the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup>

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, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/sdk

Ref: ID# 401279

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.