



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2011

Ms. Teresa J. Brown
Sr. Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2011-00759

Dear Ms. Brown:

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# 406061 (Plano ORR #WALM102210).

The Plano Police Department (the "department") received a request for all paperwork, including detective notes, and videotaped interviews pertaining to specified incidents.¹ You state you have released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.²

¹We note the department received clarification from the requestor regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²Although you raise sections 552.103, 552.108, 552.117, and 552.137 of the Government Code as exceptions to disclosure in your initial brief, you have provided no arguments regarding the applicability of these sections. We, therefore, assume you no longer assert sections 552.103, 552.108, 552.117, and 552.137. See Gov't Code §§ 552.301(b), (e), .302.

We have considered the exception you claim and reviewed the submitted representative sample of information.³

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 doctrine of common-law privacy, which 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (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. In Open Records Decision No. 339 (1982), we concluded a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify the victim. *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). Generally, only the 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; 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* Open Records Decisions Nos. 393 (1983), 339; *see also* Open Records Decision No. 440 (1986). In this instance, the requestor knows the identities of the alleged sexual assault victims. Therefore, withholding only the alleged victims' identities or certain details of the incidents from the requestor would not preserve the subject individuals' common-law rights of privacy. Thus, the department must withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy.

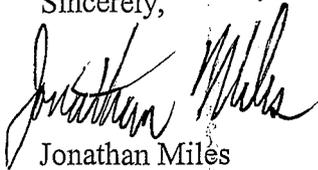
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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,

A handwritten signature in black ink, appearing to read "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 406061

Enc. Submitted documents

c: Requestor
(w/o enclosures)