



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2011

Mr. Tyler F. Wallach  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2011-12056

Dear Mr. Wallach:

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# 427653 (PIR No. W009295).

The City of Fort Worth (the "city") received a request for a specified police report. You claim 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 information you submitted.

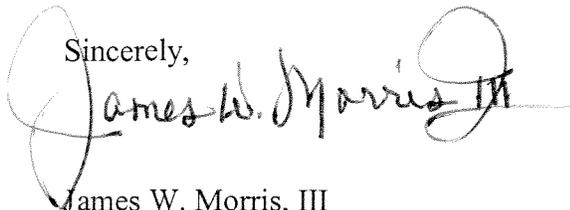
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See id.* at 681-82. Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information also are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private).

The submitted police report pertains to an alleged sexual assault. We note the identity of an alleged sexual assault victim is protected by common-law privacy under section 552.101. *See* Open Records Decision Nos. 393 (1983), 339 (1982). Although the submitted report uses a pseudonym to identify the alleged victim, we have marked other identifying information the city must withhold under section 552.101 of the Government Code in conjunction with common-law privacy. You state the submitted report also includes the name of a second alleged sexual assault victim, which you have marked. We agree the city also must withhold that information under section 552.101 in conjunction with common-law privacy. Although you also have marked other portions of the submitted report you contend could potentially be used to ascertain the first victim's true identity, we note those portions of the report are not intrinsically intimate or embarrassing and of no legitimate public concern. We also note a governmental body is not responsible for the use that may be made of information it releases to the public under the Act. *See* Gov't Code § 552.204; Open Records Decision No. 508 at 3 (1988) (use that may be made of information does not control whether it falls within exception to disclosure); *cf. A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995) (Tax Code does not preclude release of public information even if person could use it to deduce otherwise privileged information). Thus, the city may not withhold any of the remaining information you have marked under section 552.101 in conjunction with common-law privacy on the basis of the use the requestor might make of the information. Therefore, except for the identifying information we have marked and the name of the second victim you have marked, the city must release the submitted information.

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, looping initial "J".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 427653

Enc: Submitted documents

c: Requestor  
(w/o enclosures)