



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2014

Ms. J. Diaz
Assistant City Attorney
City of Dallas
1400 South Lamar Street
Dallas, Texas 75215

OR2014-16929

Dear Ms. Diaz:

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# 537130 (ORR# 2014-2560).

The Dallas Police Department (the "department") received a request for incident reports during a specified time period relating to specified service numbers. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

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 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683.

¹We note, and you acknowledge, the department did not comply with section 552.301 of the Government Code in requesting this decision. See Gov't Code § 552.301(b). Nevertheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider your claimed exception for the submitted information. See *id.* §§ 552.007, .302, .352.

²We 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 that those records contain substantially different types of information than that submitted to this office.

We note the submitted information pertains to sexual assault investigations. In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy; however, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identities of witnesses to and victims of sexual harassment are highly intimate or embarrassing information and public does not have legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). You argue the submitted information should be withheld in its entirety on the basis of common-law privacy. However, you have failed to demonstrate the requestor knows the identities of the alleged victims. Thus, the department has not demonstrated the entire reports must be withheld on the basis of common-law privacy. However, we have marked the portions of the submitted reports that identify or tend to identify the alleged victims of the sexual assaults. The department must withhold this information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The department has failed to demonstrate any of the remaining information at issue is highly intimate or embarrassing and a matter of no legitimate public interest. Therefore, no portion of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions, 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 537130

Enc. Submitted documents

c: Requestor
(w/o enclosures)