



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 22, 1995

Mr. G. Chadwick Weaver
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR95-779

Dear Mr. Weaver:

You asked whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29122.

The City of Midland (the "city") received an open records request from the United States Equal Employment Commission (the "EEOC") for the criminal investigative file prepared by the Midland Police Department concerning a women who has filed a sexual harassment complaint with the EEOC. You contend that some of the information is excepted from public disclosure under section 552.101 of the Government Code as information made confidential under the doctrine of common-law privacy. Specifically, you contend that the "Incident Details" of the police report, labeled Exhibit "B," is excepted from public disclosure because it contains the victim's name as well as other information which is confidential under law.

To secure the protection of section 552.101 on the basis of common-law privacy, a governmental body must demonstrate that: (1) the requested information is highly intimate or embarrassing the release of which would be highly objectionable to a person of ordinary sensibilities, and (2) there is not legitimate public interest in its disclosure. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). In Open Records Decision No. 339 (1982), this office concluded that the identity of a victim of aggravated sexual abuse was excepted from disclosure in accordance with section 552.101, as "information deemed confidential by law, specifically, the common-law right of privacy." In Open Records Decision No. 393 (1983), this office similarly concluded that the identity of a child, who was the victim of sexual abuse, was excepted by common-law privacy.

The report at issue contains information about an alleged sexual assault. It is impossible to de-identify the report because the EEOC is already aware of the victim's identity. Therefore, the entire report must be withheld under the common-law right of privacy. We note, however, that the city may release the report to the commission if the individual whose rights are affected consents to its release.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. The ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.101 regarding any other records. If you have any other questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/MRC/SAB/rho

Ref.: ID# 29122

Enclosures: Submitted documents

cc: Mr. Rollin H. Wickenden
Investigator
U.S. Equal Employment Opportunity Commission
4171 North Mesa Street, Building C, Suite 100
El Paso, Texas 79902
(w/o enclosures)