



October 21, 1999

Mr. Steven D. Monte'
Office of the City Attorney
City Hall
1500 Marillo
Dallas, Texas 75201

OR99-2973

Dear Mr. Monte':

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129480.

The City of Dallas (the "city") received a request for "Officer Hark's IAD File and Resume." While you state that you have released materials responsive to the request, you maintain that Control # 92-335 F is excepted from disclosure under section 552.101 of the Government Code. We have considered your argument and have reviewed the representative sample of documents submitted.¹

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. In *Industrial Foundation*, the Texas Supreme Court held that information that relates to, among other things, sexual assault is intimate and embarrassing and is generally of no legitimate public interest. *Id.* at 683; *see also* Open Records Decision Nos. 393 (1983), 339 (1982). Therefore, the city must withhold information that identifies the sexual assault victim under section 552.101 in conjunction with the common-law right to privacy. However, we note that on the submitted prosecution report, the victim's name appears to be a pseudonym. In other instances where the victim's name appears, there is no indication that

¹We assume that 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.

the name is a pseudonym. Consequently, we are unable to determine whether the submitted documents actually reveal the victim's real name or not. Assuming that the name attributed to the victim is real, then the victim's name and address must be redacted. Otherwise, common-law privacy, as encompassed by section 552.101, does not protect the pseudonym.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This 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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 129480

Encl: Submitted documents

cc: Mr. Packard Finley Anderson
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(w/o enclosures)