



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 25, 2009

Ms. Cheryl K. Byles
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-02490

Dear Ms. Byles:

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# 337003 (City of Fort Worth PIR No. 1235-09).

The Fort Worth Police Department (the "department") received a request for a specified incident report. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 section encompasses the doctrine of common-law privacy, which protects information from disclosure when (1) it is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities and (2) there is no legitimate public interest in its disclosure. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office also recognizes that information must be withheld under section 552.101 in conjunction with common-law privacy upon a showing of "special circumstances." *See* Open Records Decision No. 169 (1977). "Special circumstances" refers to a very narrow set of situations in which the release of information would likely cause someone to face "an imminent threat of physical danger." *Id.* at 6. Such "special circumstances" do not include "a generalized and speculative fear of harassment or retribution." *Id.*

In this instance, you inform us that release of the information you have marked, which identifies undercover officers, would not only compromise the effectiveness of these

individuals as undercover officers, but would also likely cause them to face imminent threat of physical danger. We note that the requestor is a representative of the United States District Court, but this requestor has not directed our attention to any federal or state law that would authorize the release of the marked information in this instance. Accordingly, based on your representations and our review, we agree that the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with the "special circumstances" aspect of common-law privacy. We have also marked additional information that the department must withhold on this same basis.

This office has also found that the identities of victims of sexual abuse are also protected by common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Generally, 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. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). The information at issue relates to charges of human trafficking and identifies two victims who were allegedly forced into prostitution. Based on these facts, we conclude that the department must also withhold the information we have marked that identifies the victims of this crime.

In summary, the department must withhold the information you and we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remainder of the submitted information to the requestor.

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, 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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/eb

Ref: ID# 337003

Enc. Submitted documents

cc: Requestor
(w/o enclosures)