



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-07623

Dear Mr. Phillips:

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# 345166 (Fort Worth PIR No. 2612-09).

The City of Fort Worth (the "city") received a request for two specified incident reports. You state you have released one of the requested reports to the requestor. You also state the city has redacted social security numbers and certain Texas-issued motor vehicle record information relating to living individuals other than the requestor pursuant to the previous determinations issued in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006).¹ See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (previous determinations). You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² Gov't Code § 552.101. This section encompasses common-law privacy and excepts from disclosure private facts about an individual. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). Information is excepted from required public disclosure by a common-law right of privacy if the information (1) contains highly intimate or embarrassing facts the publication of which

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

²The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

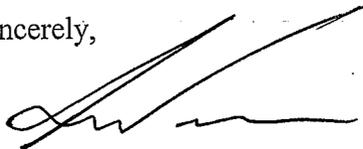
would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.*

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) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and the public did not have a legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). The incident report at issue pertains to an alleged sexual assault. Despite the pseudonym used by the alleged victim in the report, the requestor in this case knows the identity of the alleged victim. We believe that, in this instance, withholding only identifying information from the requestor would not preserve the victim's common-law right to privacy. We conclude, therefore, that the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.³

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

³As our ruling is dispositive, we need not address your argument against disclosure.

Ref: ID# 345166

Enc. Submitted documents

c: Requestor
(w/o enclosures)