



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2009

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

OR2009-08822

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# 349092 (PIR No. 3301-09).

The City of Fort Worth (the "city") received a request for a specified police report. You state that a social security number has been redacted from the responsive report pursuant to section 552.147 of the Government Code.¹ You claim that other information contained in the report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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 exception encompasses common-law privacy and excepts from disclosure private facts about an individual. *See 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 would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Id.* at 685.

In Open Records Decision No. 393 (1983), this office concluded that generally only that information that 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. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex.

¹Section 552.147(b) 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.

App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information, and 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).

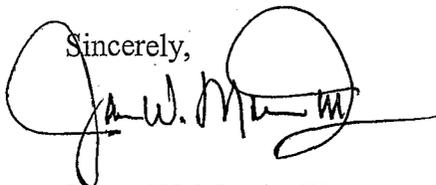
The submitted information is a report of a police investigation of an alleged sexual assault. You contend that the information at issue must be withheld from the requestor in its entirety under common-law privacy. You acknowledge, however, that “[t]he city does not know the relationship of the victim and the requestor.” Moreover, the submitted information itself does not indicate that the requestor knows the victim’s identity. We therefore conclude that the submitted information is not excepted from disclosure in its entirety under section 552.101 in conjunction with common-law privacy.

In the alternative, you seek to withhold information relating to the victim’s identity under common-law privacy. You acknowledge that the submitted report uses a pseudonym to identify the victim. You note, however, that the report contains the victim’s nickname. We understand you to contend that release of the victim’s nickname might reveal her true identity. Having reviewed the submitted information, we agree that the release of the victim’s nickname would tend to reveal her identity. Moreover, we note that the submitted report also contains the victim’s actual first name. We find that disclosure of that information also would tend to identify the victim. We therefore conclude that the city must withhold the victim’s nickname, which you have highlighted, and the victim’s first name, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The rest of the submitted 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.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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 349092

Enc: Submitted documents

c: Requestor
(w/o enclosures)