



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2009

Ms. Terri Bradley
Records Division
Rosenberg Police Department
2120 Fourth Street
Rosenberg, Texas 77471

OR2009-09101

Dear Ms. Bradley:

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# 347740.

The Rosenberg Police Department (the "department") received a request for incident report number 2009-11413. 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.

Initially, we note that a portion of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date the request was received. The department need not release non-responsive information in response to this request and this ruling will not address that 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."¹ This section encompasses the doctrine of common-law privacy, which protects information that is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person and the public has no legitimate interest in it. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* include information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only the 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, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* Open Records Decisions Nos. 393 (1983), 339 (1982); *see also* Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). In this instance, the requestor knows the identity of the alleged victim in the submitted incident report. Thus, withholding only the identifying information from the requestor would not preserve the victim's common-law right to privacy. Accordingly, to protect the privacy of the alleged victim, the department must withhold the submitted report in its entirety under section 552.101 in conjunction with common-law privacy. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/eeg

Ref: ID# 347740

Enc. Submitted documents

c: Requestor
(w/o enclosures)