



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

~~September 1, 2009~~

Mr. Paul F. Wieneskie
Attorney at Law
204 S. Mesquite
Arlington, Texas 76010

OR2009-12368

Dear Mr. Wieneskie:

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# 354071.

The Euless Police Department (the "department"), which you represent, received a request for eight specified police reports. We understand you have released all requested reports except for submitted report number 0900032099. You claim this report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You argue the submitted report is confidential under section 552.101 of the Government Code, which 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,¹ which protects information that (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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). You assert the submitted report relates to a sexual assault. Generally, only information tending to identify

¹Although you mention constitutional privacy in your brief to this office, the references you cite in support of your privacy argument pertain to the doctrine of common-law privacy. *See generally Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976); Open Records Decision No. 339 (1982). Accordingly, we address your privacy claim under common-law privacy.

victims of serious sexual offenses is protected by common-law privacy. *See* Open Records Decision Nos. 393 at 2 (1983), 339 at 3 (1982). You argue that the submitted report should be withheld on the basis of common-law privacy to protect the alleged victim's identity. The report reflects, however, that the alleged victim recanted her story that she was sexually assaulted. Thus, you failed to demonstrate that this report reveals the identity of a victim of sexual assault. Accordingly, because you have not otherwise shown how the submitted report implicates the privacy interests of an individual, we conclude that common-law privacy is inapplicable to this report. ~~As you raise no other exceptions to disclosure, the submitted report must be released in its entirety.~~

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 354071

Enc. Submitted documents

cc: Requestor
(w/o enclosures)