



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2011

Ms. Luz Sandoval Walker
Assistant City Attorney
City of El Paso
810 Overland
El Paso, Texas 79901

OR2011-00378

Dear Ms. Sandoval-Walker:

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# 407440 (2010-11-27-AG).

The El Paso Police Department (the "department") received a request for a copy of the offense report as it relates to case number 10-130070. You claim the submitted incident/investigation report is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 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). The submitted incident/investigation report pertains to an alleged sexual assault. Generally, only 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). However, a governmental body is required to withhold all of the information at issue when the requestor knows the identity of the alleged sexual assault victim. See ORD 393. In this instance, the request for

information reflects the requestor knows the identity of the alleged sexual assault victim listed in the report. Therefore, withholding only the victim's identity from the requestor would not preserve the victim's common-law right of privacy. Accordingly, the submitted incident/investigation report must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.¹

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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/vb

Ref: ID# 407440

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.