



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2013

Ms. Linda Pemberton
Paralegal
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2013-02417

Dear Ms. Pemberton:

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# 482951 (No. W009795).

The Killeen Police Department (the "department") received a request for information related to a specified incident involving two named individuals. You claim the requested information 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 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,

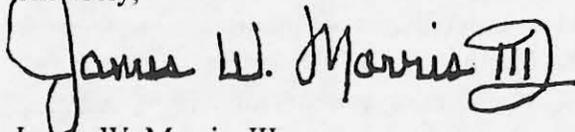
the governmental body was required to withhold the entire report. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing 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 related to an investigation of an alleged sexual assault, and the requestor knows the name 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 therefore conclude the department must withhold all of the submitted information from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy. As we are able to make this determination, we need not address the other exception you claim.

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, stylized initial "J".

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

JWM/bhf

Ref: ID# 482951

Enc: Submitted documents

c: Requestor
(w/o enclosures)



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2013

Ms. Delietrice Henry
Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-02415

Dear Ms. Henry:

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# 482801 (ORR# SARJ011413).

The Plano Police Department (the "department") received a request for information related to a specified case. You state some of the requested information has been released. You claim the rest of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.¹

We note the requested information was the subject of a previous request, as a result of which this office issued Open Records Letter No. 2013-00172 (2013). In the previous ruling, we concluded the requested information may not be withheld under section 552.108 of the Government Code and must be released. Therefore, as you do not indicate there has been any change in the law, facts, and circumstances on which the previous ruling is based, the department must release the requested information in accordance with Open Records Letter

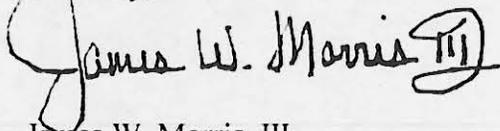
¹This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

No. 2013-00172.² See Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a circled "III" at the end.

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

JWM/bhf

Ref: ID# 482801

Enc: Submitted documents

c: Requestor
(w/o enclosures)

²As we are able to make this determination, we need not address your claim under section 552.108.