



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2015

Ms. Stephanie Berry
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2015-17872

Dear Ms. Berry:

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# 577516.

The Denton Police Department (the "department") received a request for information concerning a specified sexual assault. The department claims the submitted information regarding the specified offense is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Section 552.101 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 common-law privacy and excepts from disclosure private facts about an individual. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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) the information is not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d 668.

In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which 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. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also* *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identities of witnesses to and victims of sexual harassment were highly intimate or embarrassing information and public did not have legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). The requestor in this case knows the identity of the alleged victim. We believe that, in this instance, withholding only the identifying information from the requestor would not preserve the victim's common-law right to privacy. We conclude, therefore, the department must withhold all of the submitted information pursuant to section 552.101.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 577516

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹Because section 552.101 of the Government Code is dispositive, we do not address the department's other asserted exceptions.