



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Mr. Charles E. Griffith, III
Deputy City Attorney
City of Austin
Norwood Tower
P.O. Box 1088
Austin, Texas 78767-8828

OR94-621

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27600.

The City of Austin (the "city") has received a request for "a copy of any case reports and statements from witnesses and others on file in the Crimes Against Persons Division, and 911 calls as listed in your files referencing [a particular case] pertaining to 9420 N Interstate 35, Austin" You advise that the case about which the requestor seeks information is an open criminal case involving the offense of aggravated sexual assault of a child. You state that, in accordance with *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and Open Records Decision No. 127 (1976), the city will make available to the requestor a copy of the offense report, with the names of the victims deleted. You believe that sections 552.101 and 552.108 of the Government Code except the remaining information from required public disclosure, however.

Section 552.108(a) of the Government Code excepts from required public disclosure "[a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, and prosecution of crime" We have examined the documents that you submitted for our review, *see* Gov't Code § 552.303, and agree that they are records of a law-enforcement agency pertaining to the detection, investigation, and prosecution of crime. In general, section 552.108 does not except information appearing on the first page of an offense report. *See Heard v. Houston Post Co.*, 684 S.W.2d 210, 213 (Tex. App.--Houston [1st Dist.] 1984, *writ ref'd n.r.e.*).

In this case, however, the offense involves an alleged aggravated sexual assault of a child. Section 552.101 excepts from required public disclosure information "confidential by law, either constitutional, statutory, or by judicial decision." In Open Records Decision No. 628 (1994) at 4 this office confirmed that the common-law right of privacy, incorporated into section 552.101, protects information that identifies or tends to identify victims of serious sexual offenses.¹ Accordingly, we conclude that the city correctly plans to delete from the record it will release to the requestor information identifying or tending to identify the victims. Additionally, we conclude that section 552.108 authorizes the city to withhold the remainder of the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymerly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LRD/rho

Ref.: ID# 27600

Enclosures: Submitted documents

cc: Mr. Cleon A. Walden
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Dallas, Texas 75237
(w/o enclosures)

¹Open Records Decision No. 628 also cited section 34.08 of the Family Code as a statutory source of confidentiality incorporated into section 552.101 of the Government Code. Section 34.08 makes confidential records of law-enforcement agencies generated pursuant to an investigation of child abuse under chapter 34 of the Family Code. You do not claim that the requested information is confidential under section 34.08 of the Family Code.