



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1994

Mr. Gary W. Smith
City Attorney
City of Greenville
P.O. Box 1049
Greenville, Texas 74503-1049

OR94-887

Dear Mr. Smith:

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# 25130.

The City of Greenville Police Department has received a request for information related to a particular offense report on an incident of alleged "harassment/stalking." You say that the city will release much of the requested information but wishes to withhold the portions of the report giving the alleged victim's address and telephone number, and the names, addresses, telephone numbers, and statements of witnesses. You note that the case is still pending, and you argue that the information in question may be withheld under section 552.108 of the Government Code.¹

Section 552.108(a) excepts from required public disclosure "[a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" For cases that are still under active investigation or prosecution, section 552.108 may be invoked to except from disclosure all information except that generally found on the first page of the offense report. Open Records

¹You also argue that the alleged victim's address and telephone number may be withheld under section 552.101 as information protected by common-law privacy. However, to be protected by common-law privacy, information must be both highly intimate or embarrassing and of no legitimate interest to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). A home address or telephone number is not highly intimate or embarrassing. Open Records Decision Nos. 554 (1990) at 2-3; 455 (1987) at 7. Therefore, neither a home address or telephone number is protected by common-law privacy.

Decision No. 611 (1992) at 2. Information generally found on the first page of an offense report may be withheld only if the governmental body demonstrates that releasing the information would unduly interfere with law enforcement or prosecution. Open Records Decision No. 508 (1988) at 2. In closed cases, however, the governmental body must demonstrate that release of the information would unduly interfere with law enforcement or prosecution before it can withhold any of the information under section 552.108. Open Records Decision No. 611, at 2.

We have reviewed the information that you claim is excepted from disclosure, and we conclude that you may withhold under section 552.108(a) part of it. Information generally found on the first page of an offense report does not usually include information identifying witnesses and the statements of witnesses. Open Records Decision No. 127 (1976) at 3-4. Information generally found on the first page of an offense report does, however, include a detailed description of the offense. *Id.* In this case, the only description of the offense appears to be the narrative written by an officer who responded to the complaint regarding this incident. This narrative includes information provided by witnesses. Thus, while you may withhold the identities of the witnesses, you must release the portions of narrative that do not reveal the identities of the witnesses. We have marked these portions on the unredacted copy of the offense report.

Information generally found on the first page of an offense report also includes the identification and description of the victim. However, in this case, you have established that releasing the victim's address and telephone number would unduly interfere with law enforcement provided that the perpetrators do not already know this information. If the perpetrators do not already know the victim's address and telephone number, giving the public access to this information would possibly give the perpetrators one more way to harass the victim. Thus, you may withhold the victim's address and telephone number under section 552.108(a) provided that the perpetrators do not already know her address and telephone number.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/LRD/rho

Ref: ID# 25130

Enclosures: Marked documents

cc: Mr. Don A. Parks
P.O Box 8484
Greenville, Texas 75904
(w/o enclosures)