



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 2, 1997

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 E. 3rd
Amarillo, Texas 79101-1514

OR97-1267

Dear Captain Taylor :

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# 106845.

The Amarillo Police Department (the "department") received a request for a specific incident report. You assert that the requested report is excepted from required public disclosure based on sections 552.101 and 552.108 of the Government Code. You have provided information showing that the complainant does not wish certain identifying information concerning the incident to be disclosed.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.¹ *Houston Chronicle Publ'g 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); Open Records Decision No. 127 (1976). Nevertheless, in special circumstances, front page offense report information may also be withheld from disclosure. See Open Records Decision Nos. 297 (1981), 169 (1977). You have informed us of extenuating circumstances that you believe necessitate the withholding of the front page offense report information that reveals the alleged victim's name, address, and telephone number. Based

¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

upon the information provided to this office, we do not think that you have shown special circumstances sufficient to overcome the presumption of public access to front page information. Consequently, we conclude that the department must release the front-page report information. However, the department may withhold the remainder of the report from required public disclosure pursuant to section 552.108 of the Government Code.

As we have concluded that section 552.108 does not except from disclosure the front page offense report information, we must consider your section 552.101 claim. Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* We find no information contained in the front page offense report information that is highly intimate and embarrassing. Therefore, we conclude that you may not withhold the front page offense report information under section 552.101 of the Government Code.

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 should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/alg

Ref.: ID# 106845

Enclosures: Submitted documents

cc: Ms. Oleta Lanham
3733 Harmony
Amarillo, Texas 79109
(w/o enclosures)