



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 25, 1997

Mr. Kevin D. Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR97-1451

Dear Mr. Pagan:

You have asked whether certain information is excepted from required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107048.

The City of McAllen (the "city") received a request for a particular police report. You state that the city has released the front page offense report information to the requestor. However, the city asserts that the remaining portion of the requested information is excepted pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the documents at issue.

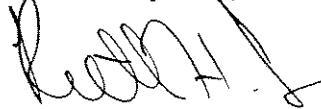
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). However, information normally found on the front page of an offense report is generally considered public. *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). Thus, pursuant to section 552.108, you may withhold all but the front page information from disclosure.

In this particular situation, the front page information contains certain details that are confidential under the doctrine of common-law privacy. Section 552.101 of the Government Code excepts from disclosure information that is confidential on the basis of common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931. Information must be withheld from the public

when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). at 685; Open Records Decision No. 611 (1992) at 1. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. In this situation, all front page information that would identify the victim of the alleged assault must be withheld on the basis of common-law privacy. Open Records Decision No. 339 (1982).

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 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,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/SAB/alg

Ref.: ID# 107048

Enclosures: Marked documents

cc.: Ms. Nancy A. Shaw  
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