



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 14, 1997

Ms. J. Middlebrooks
Assistant City Attorney
Office of the City Attorney
501 Police & Courts Building
Dallas, Texas 75201

OR97-1827

Dear Ms. Middlebrooks:

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# 107829.

The City of Dallas (the "city") received a request for a "[c]opy of arrest warrant and/or arrest warrant affidavit [sic] for Willie Bell Sublet dated on or about May 14, 1997." You claim that the requested information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

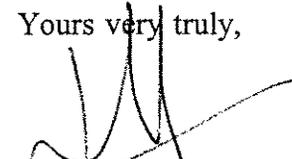
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that 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, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *See* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). This includes the arrestee's name, aliases, sex, age, occupation, address, police department identification number, and physical condition. The information at issue deals with the detection, investigation, or prosecution of crime. We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure.

However, some of the front page offense report information is excepted from disclosure under section 552.101. In sexual assault cases, section 552.101 of the Government Code excepts from public disclosure certain information that is not normally excepted under section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy. The doctrine of common-law privacy protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person *and* the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 339 (1982), we concluded that a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify them. *See also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, *writ denied*) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). You must withhold any information that would identify the victim in this case.

Additionally we note that if the document forwarded to this office was filed with the court, it has become a public record and may not now be withheld. *See, Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). However, if the "arrest warrant and/or arrest warrant affidavit" has not been filed with the court you may withhold it in accordance with section 552.108 of the Government Code with the release of front page information subject to those provisions coming within section 552.101 as referred to above.

We are resolving this matter with this 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 107829

Enclosures: Submitted materials

cc: Ms. Meredith Schucker
WFAA-TV News
606 Young Street
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(w/o enclosures)

