



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 11, 1998

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

OR98-0418

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# 113371.

The Amarillo Police Department (the "department") received an open records request for a particular incident report pertaining to an alleged sexual assault. You seek to withhold the requested report pursuant to, *inter alia*, section 552.108(a)(2) of the Government Code, which exempts from required public disclosure "information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." A review of the record at issue reveals that the Potter County Grand Jury "no billed" this particular offense. Accordingly, we conclude that you have met your burden of establishing the applicability of section 552.108(a)(2) to the incident report.

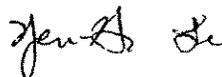
Section 552.108 of the Government Code does not, however, exempt from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Consequently, you must release to the requestor the categories of information specifically made public in *Houston Chronicle Publishing Company 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), with the following exception.

Some of the front page information at issue must be withheld from public disclosure pursuant to section 552.101 of the Government Code. Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including 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). 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* it is of no legitimate concern to the public. *Id.* at 683-85.

Clearly, information pertaining to an incident of sexual assault raises an issue of common-law privacy. Open Records Decision No. 339 (1982). In Open Records Decision No. 339 (1982), this office concluded that “a detailed description of an incident of aggravated sexual abuse raises an issue of common law privacy” and therefore any information tending to identify the assault victim must be withheld pursuant to common-law privacy. *See also* Open Records Decision No. 393 (1983). Accordingly, the department must withhold from the public all front page offense report information that tends to identify the assault victim. *But see* Gov’t Code § 552.023 (information protected solely by privacy may not be withheld from individual to whom information pertains or from that person’s “authorized representative”).¹

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/rho

Ref.: ID# 113371

Enclosure: Submitted document

cc: Mr. Sammy Wayne Moore
8217 Lamont Drive
Amarillo, Texas 79110-4617
(w/o enclosure)

¹We do not address in this ruling whether the requestor is acting as the assault victim’s “authorized representative.”