



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 16, 1998

Mr. William M. Toles
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-0976

Dear Mr. Toles:

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# 114442.

The City of Dallas (the "city") received a request for a copy of a particular offense report relating to the crime of sexual assault. You indicate that the city will release some of the front page offense report information to the requestor. *See generally* Gov't Code § 552.108(c); *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). You contend that the remaining information is excepted from disclosure under section 552.108 of the Government Code and common-law privacy. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." We understand from your arguments that the investigation is pending regarding this matter, and that releasing the submitted information will interfere with the investigation of crime. Based upon these representations, we conclude that the city may withhold the information from disclosure under section 552.108(a)(1). *See 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) (court delineates law enforcement interests that are present in active cases).

Basic information about an arrested person, an arrest, or a crime is not excepted from required public disclosure. Gov't Code § 552.108(c). Although the city intends to release much of the front page information regarding this crime, you contend that the victim's identity and the description of the offense must be withheld in this instance on the basis of common-law privacy under section 552.101 of the Government code. Information may be withheld under section 552.101 in conjunction with common-law privacy only if the information is highly intimate or embarrassing *and* it is of no legitimate concern 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). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that 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; *see also* Open Records Decision No. 339 (1982) (concluding that description of sexual assault and identity of victim protected under common-law privacy). Thus, the city must withhold the identity of the victim and the description of the offense on the basis of common-law privacy under section 552.101.

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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 114442

Enclosures: Submitted documents

cc: Mr. Mark A. Byrd
President
Byrd Investigations, Inc.
P.O. Box 850281
Mesquite, Texas 75185-0281
(w/o enclosures)