



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 6, 1998

Ms. Heather Silver  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
Municipal Building  
Dallas, Texas 75201

OR98-2371

Dear Ms. Silver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118559.

The Dallas Police Department received a request for all records pertaining to residential property located at 5407 Bryan Street, Dallas, Texas, 75206. You indicate that you will release all responsive information except for four incident reports. You claim that these reports are 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 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is 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; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

\* \* \*

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that three of requested reports, incident report numbers 0482092-G, 0482661-G, and 0424172-G, concern open records of prosecution and are under active investigation by the department. We find that you have shown that the release of the three requested reports would interfere with the detection, investigation or prosecution of crime. *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); Open Records Decision No. 216 (1978). Thus, we conclude that these three reports may be withheld under section 552.108(a)(1). 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 in the three reports 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. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

You finally claim the report number 0934171-F is excepted from disclosure under section 552.101 of the Government Code based on a right of privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may 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.

*Id.* at 685; Open Records Decision No. 611 at 1 (1992). After reviewing the submitted material, we believe that you must withhold incident report number 0934171-F in its entirety based upon common-law privacy. *Cf.* Open Records Decision Nos. 600 (1992), 440 (1986).

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,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/nc

Ref: ID# 118559

Enclosures: Submitted documents

cc: Mr. Daniel Bryan  
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Dallas, Texas 75234  
(w/o enclosures)