



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 9, 1998

Mr. Richard Brown
Assistant City Attorney
Criminal Law and Police Department
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-3007

Dear Mr. Brown:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120081.

The Dallas Police Department (the "department") received a request for a number of police offense reports. You submitted representative samples of the records that you contend are protected from disclosure under sections 552.101 and 552.108 of the Government Code.¹ You contend that some of the reports concern cases that are currently pending, and thus may be withheld from disclosure pursuant to section 552.108(a)(1) of the Government Code. You also seek to de-identify reports concerning sexual assaults in order to protect the privacy of the sexual assault victims.

Section 552.101 of the Government Code protects from disclosure information that implicates an individual's common-law privacy. Generally, front page offense report information is considered public information that must be disclosed. *See generally 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). However, there are certain types of crimes in which the release of even front page information implicates the victim's protected common-law privacy

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

interests. In *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the Texas Supreme Court said that information must be withheld from public disclosure under a common-law right of privacy when it is (1) 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. The type of information the supreme court considered intimate and embarrassing included information relating to sexual assault. *Id.* Generally, the identity of a sexual assault victim, which includes all identifying information such as home address and telephone number, must be withheld in order to protect the privacy of the victim. See Gov't Code § 552.352.

We have reviewed the representative samples of the reports submitted to this office, and note that the only report which concerns a sexual assault involves a child. Subsection (a) of section 261.201 of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

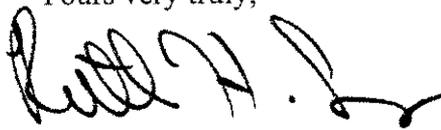
The submitted sexual assault report is part of an investigation made under chapter 261 of the Family Code. Thus, the information in this report may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the department, which is the agency that investigated the allegation. Since you have not informed this office that the department has adopted any rules providing for release of this information to this requestor, we conclude that this type of sexual assault report is protected from disclosure in its entirety.

The other sample report concerns a robbery. Based upon your arguments to this office, we assume that you are asserting that the other reports at issue concern pending criminal cases, and it is on that basis that you argue for the applicability of section 552.108(a)(1) to these reports. Section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108. Basic offense information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. Open Records Decision No. 127 (1976). Since you assert that the other reports concern pending criminal cases, we

agree that section 552.108(a)(1) protects these offense reports, except for the front page information. Open Records Decision No. 216 at 3 (1978) (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). The front page offense report information must be disclosed, but the department may withhold from disclosure the remaining portions of the reports.

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 120081

Enclosures: Submitted documents

cc: Mr. Nicholas Petroff
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(w/o enclosures)