

January 18, 1999



OFFICE OF THE  
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STATE OF TEXAS

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Mr. James N. Schnurr  
Assistant City Attorney  
Criminal Law & Police Division  
1500 Marilla  
Dallas, Texas 76201

OR99-0119

Dear Mr. Schnurr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121182.

The Dallas Police Department received a request for all reports concerning sixteen service numbers. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception 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.

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(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).

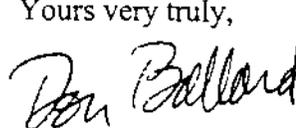
You indicate that the requested information concerns an ongoing criminal investigation and prosecution. You state that an assault (family violence) case is pending against Mr. Kuzniarek. You have also provided a letter from an assistant district attorney who asks that the requested information be withheld. We find that you have shown that the release of three of the requested service numbers, 1194535E, 0951651F, and 0951787E, 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 you may withhold service numbers 1194535E, 0951651F, and 0951787E 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 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 have not, however, shown how or why the other requested service numbers fall under the protection of section 552.108. Gov't Code § 552.301(b)(1). You have also not demonstrated or argued how these reports deal with or relate to the

pending criminal investigation or prosecution. The remaining thirteen reports may not be withheld under section 552.108. Notwithstanding the inapplicability of section 552.108, we have marked other information that must be withheld under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section 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). Except for the information we marked, you must release the remaining thirteen reports. *See* Open Records Decision No. 422 (1984).

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# 121182.

Enclosures: Marked documents

cc: Ms. Karen Kuzniarek  
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Graham, Texas 76450  
(w/o enclosures)