



March 17, 1999

Mr. Richard Brown
Assistant City Attorney
Office of the City Attorney
City of Dallas
Municipal Building
Dallas, Texas 75201

OR99-0761

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122817.

The Dallas Police Department (the “department”) received a request for offense reports relating to thirteen incidents that occurred from February 24, 1991 to November 22, 1995. You claim that three service reports are excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. If there are other service reports that are responsive to the request, we assume that you have released such information to the requestor. We have considered the exceptions you claim and have reviewed the documents submitted.

Section 552.108 excepts from disclosure 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 552.021 if release of the information would interfere with the detection, investigation or prosecution of crime. 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 state that the responsive service reports relate to pending criminal prosecutions. Accordingly, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.3d 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

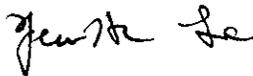
present in active cases). We conclude, therefore, that section 552.108(a)(1) is applicable to the requested information.

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle*, 536 S.W.2d at 559; 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.

However, because the service reports contain information about alleged sexual assaults, certain front page offense report information is excepted from disclosure under section 552.101 of the Government Code. In sexual assault cases, section 552.101 excepts from public disclosure certain information that is not normally excepted under section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy. The doctrine of 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 the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Accordingly, you must withhold any information tending to identify the sexual assault victims pursuant to common-law privacy. *See* Open Records Decision Nos. 393 (1983), 339 (1982). You must release all other front page offense report information.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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

¹The basic information that you must release is not generally excepted from public disclosure by section 552.103. Open Records Decision No. 362 (1983).

YHL/nc

Ref.: ID# 122817

Enclosures: Submitted documents

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(w/o enclosures)