



April 14, 1999

Mr. James J. Savage
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR99-1018

Dear Mr. Savage:

You have asked whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123343.

Harris County (the "county") received a request for "all records pertaining to or which would reflect complaints from or contact by" a named individual, after September 1, 1993 to the date of the request.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Criminal history information may be withheld from required public disclosure under common-law privacy if it meets the criteria articulated for section 552.101 of the act by the Texas Supreme Court in *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). *See also* Gov't Code 411.084 (prohibiting release of criminal history information obtained from Department of Public Safety). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing *and* is of no legitimate concern to the public.

In *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) (hereinafter "*Houston Chronicle*"), the court addressed the availability under the Open Records Act of certain broad categories of documents in the possession of a city police

department. The court held that "Personal History and Arrest Records" were excepted from required public disclosure. These records primarily contained criminal histories, such as information regarding previous arrests and other data relating to suspected crimes, including the offenses, times of arrest, booking numbers, locations, and arresting officers. *Houston Chronicle Publishing Co.*, 531 S.W.2d at 179. The court held that release of these documents would constitute an unwarranted invasion of an arrestee's privacy interests. *Id.* at 188.

To the extent that the requestor seeks information concerning the criminal history of the named individual, such as arrests or incidents in which the individual is a suspect, that information is protected from disclosure on the basis of section 552.101.

You submitted to this office reports that show the named individual as a complainant. You indicate that you have released the public versions of these reports, but you contend that the remaining information in the reports is protected from disclosure under section 552.108(a)(1) and (a)(2). You explain that one of the cases, labeled as Exhibit B, is pending prosecution and that the other cases have concluded in results other than convictions or deferred adjudications.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Since you assert that Exhibit B concerns a case that is pending prosecution, section 552.108(a)(1) is applicable to most of the information in the report. 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).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. As you explain that other reports at issue concern incidents that concluded in results other than convictions or deferred adjudications, section 552.108(a)(2) is applicable to most of the information in these reports.

Although most of the information in the reports is protected from disclosure under section 552.108, section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108. Basic 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. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

We note, however, that even though basic offense information must be released, there is some narrative information that may not be disclosed. Portions of the narratives contain information that is protected from disclosure under common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have indicated on the reports the type of information that is protected from disclosure under common-law privacy and may not be released from disclosure even as basic offense report information.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 123343

encl. Submitted documents

cc: Mr. C. J. Bolton
12714 Oak Plaza Drive
Cypress, Texas 77429
(w/o enclosures)