



August 19, 1999

Ms. Shelly Doty  
Records Manager  
City of Cleburne  
P.O. Box 677  
Cleburne, Texas 76033-0677

OR99-2352

Dear Ms. Doty:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128363.

The City of Cleburne (the "city") received a request for a certain offense report. You claim that the information is excepted from disclosure under sections 552.108(a)(2) and 552.101 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) 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:

\* \* \*

(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[.]

\* \* \*

(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.

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us that the information relates to an investigation that did not result in a conviction or deferred adjudication. Because the documents at issue deal with the detection, investigation, or prosecution of crime which concluded in a final result other than a conviction or deferred adjudication, you may withhold this information under section 552.108(a)(2) of the Government Code.

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 indicate that you intend to release "front page information."

Because the report contains information about an alleged sexual assault, certain information is excepted from disclosure under section 552.101 of the Government Code. 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). Generally, any information tending to identify the sexual assault victim must be withheld pursuant to common-law privacy. *See* Open Records Decision No. 393 (1983). However, because the requestor is the alleged victim described in the offense report, you need not withhold information tending to identify the victim. Gov't Code § 552.023.

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,

A handwritten signature in black ink, appearing to read "Sue M. Lee". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sue M. Lee  
Assistant Attorney General  
Open Records Division

SML\nc

Ref: ID# 128363

encl: Submitted documents