



August 20, 1999

Mr. Kevin Laughlin  
City Attorney  
City of Kerrville  
800 Junction Highway  
Kerrville, Texas 78028-5069

OR99-2364

Dear Mr. Laughlin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128321.

The Kerrville Police Department (the "department") received a request for copies of reports related to two separate sexual assaults. You claim that portions of the requested information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

One of the reports involves the sexual assault of a minor. With respect to this record, you claim that the information should be withheld pursuant to sections 552.101 and 552.108. You assert that the information is protected by common-law privacy pursuant to section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The Office of the Attorney General will raise these exceptions on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). This section encompasses information protected by other statutes.

Section 261.201(a) of the Family Code provides that

- (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 this 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 this chapter 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 this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201.

The requested information here consists of 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. We believe section 261.201(a) is applicable to the requested information. Thus, the department must withhold the report involving the sexual assault of a minor in its entirety from the requestor. Because section 261.201 of the Family Code is dispositive, we need not address your section 552.108 claim.

With respect to the report regarding the adult sexual assault victim, you claim that portions of the report should be withheld pursuant to sections 552.101 and 552.108. Section 552.108(a)(1) of the Government Code provides:

(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[.]

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 explain that the requested information concerns an instance that is currently being investigated.

We find that you have shown that the 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.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). We therefore conclude that section 552.108 of the Government Code excepts the requested record from required public disclosure.

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 types of information that are 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 state that you have released some front page offense report information.

However, you claim that several marked portions of what would otherwise be considered front page offense report information are protected by section 552.101. Because the report contains information about an alleged sexual assault, certain information is excepted from disclosure under section 552.101 of the Government Code. 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). Any information tending to identify the sexual assault victims must be withheld pursuant to common-law privacy. *See* Open Records Decision No. 393 (1983). We agree with your markings except that you must release the location of the offense because it is not basic information that identifies the victim.

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,



Sue M. Lee  
Assistant Attorney General  
Open Records Division

SML\nc

Ref: ID# 128321

Encl: Submitted documents

cc: Ms. Julie Myers  
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(w/o enclosures)