



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 18, 1996

Mr. Joe Bridges
Assistant District Attorney
Denton County Criminal District Attorney's Office
Counsel to the Sheriff
127 N. Woodrow Lane
Denton, Texas 76205

OR96-1887

Dear Mr. Bridges:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101302.

The Denton County Sheriff's Department (the "department"), which your office represents, received a request from an individual for "the name of the party accusing me" in a criminal matter. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Since the records at issue come within the purview of section 552.108, we conclude that most of the information at issue may be withheld under this section.¹

¹Although section 552.108 authorizes you to withhold the requested information, we note that you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

We note, however, that information normally found on the front page of an offense report is generally considered public.² *Houston Chronicle Publishing 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). We therefore conclude that, except for front page offense report information, section 552.108 excepts the requested records from required public disclosure.

We must next address your assertion that you wish to withhold the "information that would identify the witness to the crime." Although you have not raised section 552.101 as an applicable exception, we note that some information revealed in the submitted records and subject to disclosure as front page offense report information is excepted from required public disclosure under constitutional or common-law privacy. Therefore, we next consider whether section 552.101 of the Government Code excepts some of the submitted information, not covered by Section 552.108, from required public disclosure.³

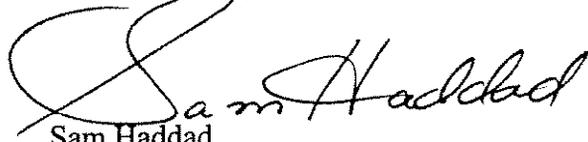
Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to be protected from public disclosure under the common-law right of privacy, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). Information must 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 (1992) at 1. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683; See Open Records Decision Nos. 339 (1982), 205 (1978) (common-law privacy permits withholding of name of victim of sexual offense). Consequently, to the extent the front page offense report information includes information subject to privacy, the city must withhold the information.

²The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*. For your convenience, we have attached a list of the types of information the city must release from the submitted record.

³The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 101302

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)