



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 8, 1996

Mr. Mitchell S. Milby  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-2068

Dear Mr. Milby:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101630.

The City of Dallas Police Department (the "department"), which your office represents, received the following request for three categories of information, related to a specific investigation:

- (1) The 911 call sheets for the area of Joe's Burgers;
- (2) Any and all notes, documents, memos, of any investigation . . . regarding the attack on [a certain named individual], as well as other incidents which occurred at Joe's Burgers;
- (3) The criminal statistics on file for the above-referenced matter.

You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. 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). We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

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<sup>1</sup> Initially, we note that you have only submitted a document which appears to be responsive to category two of the requested information. However, you have not provided to our office the requested call sheets and criminal statistics.

This office, in Open Records Letter No. 96-1265 (1996), previously ruled on several related requests to the city by the same requestor for similar information.<sup>2</sup> In the previous ruling, we concluded that the "city may not withhold the requested information from the requestor," because the information was presumed public since the city failed to seek our decision within the ten-day period mandated by Government Code section 552.301(a). Gov't Code § 552.302; see *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). We note that you may not withhold information that was previously determined to be available to the requestor in Open Records Letter No. 96-1265 (1996). Therefore, we conclude that the submitted offense report must be released to the requestor in its entirety, except for information which may be considered confidential. See Gov't Code § 552.352. We remind the city that the failure or refusal to provide access to or copying of public information is a criminal offense under chapter 552 of the Government Code. See Gov't Code § 552.353.

With regard to "the 911 call sheets" and "the criminal statistics" the *first and third category* of information requested, as you neither provided to our office a specific representative sample of these records nor made any specific arguments against their disclosure, we presume that you will be releasing this information to the requestor. Moreover, we note that in Open Records Decision No. 394 (1983), this office determined that a police record of calls answered, like front page offense report information, is generally public. See generally *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) (information normally found on the front page of offense report is generally considered public and must be disclosed).

Although you have not raised section 552.101 as an applicable exception, we must consider whether some of the information revealed in the submitted report, and subject to disclosure, should be excepted from required public disclosure under common-law privacy. The 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).

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section also encompasses common-law privacy. Under common-law privacy, private facts about an individual are excepted from disclosure. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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*. 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. We note that with regard to sexual assault cases, section 552.101 of the Government Code excepts from public disclosure some information

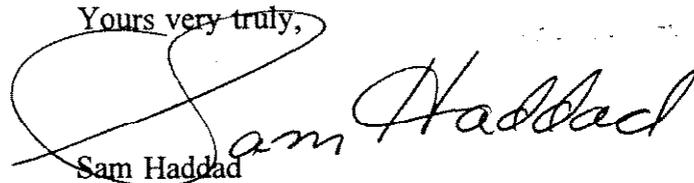
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<sup>2</sup>We enclose a copy of Open Records Letter No. 96-1265 (1996) for your information.

otherwise subject to disclosure. However, as the requestor in this case is the attorney for the victim of the sexual assault, we do not believe the victim's privacy rights are implicated here.<sup>3</sup> *See also* Open Records Decision No. 481 (1987). Consequently, the city must release the requested information to the requestor.

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,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/ch

Ref.: ID# 101630

Enclosures: Submitted documents  
Open Records Letter No. 96-1265 (1996)

cc: Ms. Dorothy J. Mulcihy  
3500 Oak Lawn, Suite 400  
Dallas, Texas 75219  
(w/ Open Records Letter No. 96-1265 (1996))

Ms. LaRonica K. Lightfoot  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201  
(w/ Open Records Letter No. 96-1265 (1996))

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<sup>3</sup> Section 552.023 grants an individual or an individual's representative access to information that is otherwise excepted from required public disclosure based on a law that protects that individual's privacy interests. *See* Open Records Decision No. 587 (1991). Therefore, you may not withhold information under section 552.101 on the basis of protecting a requestor's own common-law privacy interests. Open Records Decision No. 481 (1987) at 4.

Ms. Sandra C. Camacho  
Assistant City Attorney  
Criminal and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201  
(w/ Open Records Letter No. 96-1265 (1996))