



Office of the Attorney General

State of Texas

November 13, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. John Steiner
Division Chief
P.O. Box 1088
Austin, Texas 78767-1088

OR96-2083

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101693.

The Austin Police Department (the "department") received a request for four specific offense reports. You explain that one of the reports, number 95 0981401, will be released in its entirety. You claim that the remaining requested information is excepted from required public disclosure by sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

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 note, however, that information normally found on the front page of an offense report is generally considered public. *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). 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. *See Houston Chronicle*, 531 S.W.2d at 187; *cf.* Open Records Decision No. 597 (1991) (basic information in an offense report generally may not be withheld under section 552.103); *see also* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The information at issue deals with the detection, investigation, or prosecution of crime. We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure.¹

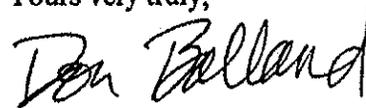
¹Because we are able to make a determination under section 552.108, we do not address your argument under section 552.103.

However, some of the offense reports contain information about an alleged sexual assault. Therefore, certain front page offense report information is excepted from disclosure under section 552.101. In sexual assault cases, section 552.101 of the Government Code excepts from public disclosure certain information that is not normally excepted under section 552.108. 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 Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 339 (1982) we concluded that a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify them. *See also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, *writ denied*) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information).

We conclude that under section 552.101 you must withhold from disclosure information that would identify the victim of an alleged sexual assault. You must release all other information that is generally found on the front page of an offense report, but may withhold the remainder of the information under section 552.108.

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 questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

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Ref: ID# 101813

Enclosures: Submitted documents