



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1996

Ms. Kay Ellen Pollack
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR96-2435

Dear Ms. Pollack:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33809.

The Dallas Police Department (the "department") received a request for information relating to a sexual assault. You inform us that you have released the requested crime statistics for a specified period in the reported area and the location of the offense. However, you claim that any investigative records concerning the sexual assault are excepted from disclosure under sections 552.101 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 or an arrest report is generally considered public.¹ *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).

However, because the offense report contains information about an alleged sexual assault, certain front page offense report information is excepted from disclosure under section 552.101 of the Government Code. In sexual assault cases, section 552.101 excepts

¹The 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*.

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 Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 262 (1980), we said that medical information might raise a claim of common-law privacy if it relates to a "drug overdose, acute alcohol intoxication, obstetrical/gynecological illness, convulsions/seizures or emotional/mental distress." Additionally, it is clear that a detailed description of an incident of aggravated sexual abuse raises an issue of common-law privacy. *See* Open Records Decision Nos. 260 (1980), 237 (1980). 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 her/him. *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 have marked the information that must be withheld based on common-law privacy under section 552.101. You must release all other front page offense report information.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 33809

Enclosures: Marked documents

cc: Mr. Mark Marzonie
18383 Preston Rd, Ste 500
Dallas, Texas 75252
(w/o enclosures)