



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 7, 1997

Ms. Felicia L. Wasson
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-0497

Dear Ms. Wasson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104490.

The City of Dallas Police Department (the "department") received a request for a copy of police report # 0656160-D. You state that the requested information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. You also state that the information is confidential because it involves juvenile suspects. You have provided for our review the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Although section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature, Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590 (current version at Family Code §§ 58.007 *et seq.*), the repealing bill provides that "[c]onduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* § 106, 1995 Tex. Gen. Laws at 2591; Open Records Decision No. 644 (1996) at 5. It appears that the requested report, which involves a juvenile offender, concerns conduct that occurred before January 1, 1996.

At the time the conduct occurred, the applicable law in effect was Family Code section 51.14 which provided, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under

Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to “police blotter” and related information). You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code¹ to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure² applies. Moreover, none of the exceptions to former section 51.14(d) apply to the requestor.³ *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the department must withhold the requested records which identify the juvenile or furnish a basis for his identification under section 552.101 of the Government Code as information deemed confidential by law.

You next contend that the requested information is excepted from disclosure under section 552.108 and common-law privacy. 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.⁴ *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).

¹Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

²Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

³Section 51.14(d)(2) provides that “an attorney representing a party to the proceeding” conducted pursuant to chapter 51 of the Family Code is permitted to inspect the confidential records. However, here, it is unclear whether the “litigation” mentioned by the requestor is a proceeding contemplated by the exception under section 51.14(d)(2).

⁴The 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*.

However, because some of the offense reports contain information about a 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 from public disclosure certain information that is not normally excepted under section 552.108. 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). 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 the victim. 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 legitimate interest in such information). Thus, the only front page offense report information which need be disclosed in this case are: 1) the offense committed, 2) time of occurrence, 3) description of the weather, and 4) names of the investigating officers.

In summary, we conclude that most of the requested information must be withheld pursuant to sections 552.101 and 552.108 of the Government Code and section 51.14(d) of the Family Code. The only information that you must release are the four types of front page information, discussed above, which are contained in the sexual assault offense reports.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

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Ref: ID# 104409

Enclosures: Submitted documents

cc: Mr. Christopher Ashby
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