Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1997

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR97-0746

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 105628.

The City of Garland (the "city") received a request for a specific offense report concerning an alleged sexual assault. You inform us that the city has released a redacted copy of the requested document. You contend that the remainder of the requested report is excepted from public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted document.

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 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) (summarizing the types of information deemed public by *Houston Chronicle*).

Because the requested offense report contains information about an alleged sexual assault, however, certain front page offense report information is also excepted from disclosure under section 552.101. Information is excepted from required public disclosure by a common-law right of privacy under section 552.101 if the information (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a

reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. of the South 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." 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) (identities of witnesses to and victims of sexual harassment were highly intimate or embarrassing information and public did not have legitimate interest in such information). Having reviewed the submitted material, we conclude that the city may withhold the redacted portions pursuant to sections 552.101 and 552.108 of the Government Code.

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,

Vickie Prehoditch

Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 105628

Enclosures: Marked documents

cc: Terri Hibbs
3643 Sixth Street
Sachse, Texas 75048
(w/o enclosures)