



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 15, 1998

Ms. Sharon R. Sela
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR98-0970

Dear Ms. Sela:

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# 114951.

The Dallas Police Department (the "department") received a request for (1) four specified offense reports, and (2) "any other offenses on [a named individual]." You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the representative sample documents you have submitted.¹

Section 552.101 excepts from required public disclosure information that is confidential by law, and encompasses information protected under common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).² To the extent that the requestor is asking for all records in which the named individual is identified as a "suspect," the requestor, in essence, is asking that the department compile that individual's criminal history. Where an individual's criminal

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²The 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).

history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department, therefore, must withhold all compilations of the referenced individual's criminal histories pursuant to section 552.101.

We now consider whether section 552.108 protects the four specified offense reports from public disclosure. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You state that "[t]he requested information deals with an open record of prosecution in which there is further pending investigation." Based upon these representations, we conclude that section 552.108(a)(1) is applicable to the four offense reports. *See 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) (court delineates law enforcement interests that are present in active cases).

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is 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 generally Houston Chronicle*, 536 S.W.2d 559; Open Records Decision No. 127 (1976). Therefore, we conclude that, except for the front page information, the department may withhold the requested information from disclosure under section 552.108(a)(1).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/alg

Ref: ID# 114951

Enclosures: Submitted documents

cc: Ms. Cecile Diaz Danton
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(w/o enclosures)