



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 15, 1998

Ms. Roxann Pais
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-1454

Dear Ms. Pais:

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# 116167.

The City of Dallas Police Department (the "department") received a request for certain crime statistics and for information relating to an aggravated sexual assault that occurred on August 20, 1996. You state that you have released the statistics to the requestor. You claim that the documents relating to 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(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 there is a continuing active investigation of the sexual assault. Based upon this representation, we conclude that the release of the documents relating to the sexual assault would interfere with the detection, investigation, or prosecution of crime. *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).

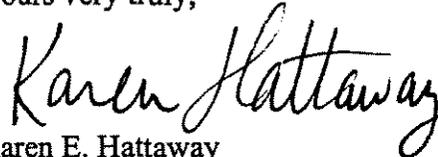
Information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

However, in cases of sexual assault, section 552.101 protects from public disclosure some information not generally protected by section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The common-law right to privacy, incorporated into the Open Records Act by section 552.101, 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. 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. 339 (1982), we concluded that the common-law right to privacy protects the identity of a sexual assault victim.

Therefore, the department must withhold all information that identifies the sexual assault victim under section 552.101 in conjunction with the common-law right to privacy, even though some of this information is generally considered front page offense report information under *Houston Chronicle*. The department must release all other front page offense report information in accordance with *Houston Chronicle*. The department may withhold the remaining portions of the submitted documents 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 116167

Enclosures: Submitted documents

cc: Ms. Ric L. Camp
Investigator
Forensic Investigations Incorporated
3232 McKinney Avenue, Suite 1160
Dallas, Texas 75204-2407
(w/o enclosures)