



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 14, 1998

Ms. Patrice Benford  
Assistant City Attorney  
City of Dallas-Municipal Building  
Dallas, Texas 75201

OR98-2416

Dear Ms. Benford:

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# 118725.

The Dallas Police Department (the "department") received an open records request for its records pertaining to the investigation of an alleged sexual assault. You contend that the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from required public 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 have informed us that the requested information pertains to a pending grand jury investigation. Assuming that either such is still the case or that the grand jury investigation resulted in an indictment, we conclude that you have met your burden of establishing that the release of the requested information at this time could interfere with law enforcement or prosecution. *See Houston Chronicle Publishing 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). You therefore may withhold most of the requested information at this time pursuant to section 552.108(a)(1).

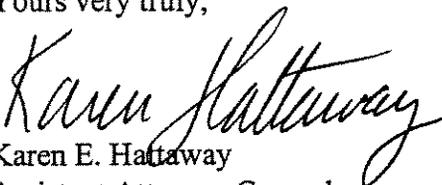
Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other exception to disclosure, the department must release these types of information, including a detailed description of the offense and of the subsequent

arrest, in accordance with *Houston Chronicle Publishing Company 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).

You also contend that the department must withhold all information tending to identify the complainant pursuant to section 552.101 of the Government Code in conjunction with the common-law right of privacy. *See* Open Records Decision No. 339 (1982). We note, however, that in this instance the requestor is an attorney acting as an agent of the complainant. We therefore conclude that the requestor has a special right of access to the information identifying the complainant pursuant to section 552.023 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,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/RWP/ch

Ref.: ID# 118725

Enclosures: Submitted documents

cc: Mr. C. Kyle Pugh  
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(w/o enclosures)