



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 20, 1998

Mr. Jay Garret  
City Attorney  
City of Greenville  
2821 Washington  
Greenville, Texas 75403-1049

OR98-2459

Dear Mr. Garret:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118728.

The Greenville Police Department ("Greenville") received a request for a copy of an offense report and any related information. You assert that portions of the report are protected from disclosure under section 552.108 of the Government Code.

We note initially that some information is specifically not protected under section 552.108. Section 552.108(c) provides that "basic information about an arrested person, an arrest, or a crime" is not excepted from disclosure under section 552.108. Front page offense report information must generally be disclosed, since this type of information provides basic information about the allegations. *See generally 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) (front page offense report information is generally considered public). Front page offense information includes the identity of the complainant, who also may be the victim, as well as the location of the crime, and a detailed description of the offense. The information you seek to withhold includes the identity of the complainant.

However, there are certain situations in which the release of identifying information about the victim could implicate an individual's common-law privacy interests. This office will raise section 552.101 to protect a third party's common-law privacy interests. In *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the Texas Supreme Court said that information must be withheld from public disclosure under a common-law right of privacy when the information is (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. The type

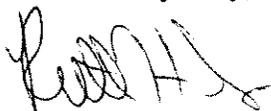
of information the supreme court considered intimate and embarrassing included information relating to sexual assault. *Id. See also* Open Records Decision No. 339 (1982) (identifying information regarding a sexual assault victim must be withheld from disclosure). Although there is certainly a strong public interest in knowing that a crime has been committed, we do not believe that such interest requires the disclosure of the identity of the victim. We agree that information identifying the victim should be redacted prior to release, and have so marked the report.

You assert that certain marked information is “an officer’s view concerning the guilt of a suspect” and that this marked information is protected from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. *See* Open Records Decision No. 216 at 3 (1978) (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977).

You state that “no arrests have been made in this case” and express your concern that release of the marked information “could provide suspects with additional knowledge concerning the investigation, thereby allowing them to possibly destroy evidence or fabricate exculpatory evidence.” A notation on the records submitted indicates that the case was suspended at some point, but not that the case has been concluded. Based upon the information provided, it appears you are asserting that the case is still pending. We agree that the marked information may be withheld from disclosure under section 552.108(a)(1) of the Government Code. The remaining information, for which you assert no exception to disclosure, must be released.

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,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

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Enclosures: Submitted documents

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(w/o enclosures)