



April 12, 1999

Mr. Charles M. Allen, II
Legal Office
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR99-0982

Dear Mr. Allen:

You have asked whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123271.

The City of Richardson (the "city") received a request for records concerning an investigation of an aggravated sexual assault. You assert that the requested information is excepted from disclosure based on section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. You explain to this office that the investigation concluded in a result other than conviction or deferred adjudication. We agree that you have shown the applicability of section 552.108(a)(2) of the Government Code to most of the information in the report.

However, section 552.108(a)(2) does not except from disclosure the basic offense information. Gov't Code § 552.108(c). Basic information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Although section 552.108(a)(2) does not except the basic offense report information from disclosure, some of the basic information listed on the front page of the report implicates the victim's common-law privacy interests, which are protected under section 552.101 of the Government Code. The test for whether

information should be withheld from disclosure under common-law privacy is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977).

We note that the requestor already has the report number and information detailing the location of the offense, the date, and the type of offense alleged. To protect the victim's privacy interests in this situation, the city must not release the front page information identifying the victim or the detailed description of the incident. We note that if the requestor were the victim's legal representative, release of this information would not implicate the victim's privacy interests. *See* Gov't Code § 552.023(a). As there is no proof that the requestor is the victim's attorney, we conclude that this basic information must be withheld from disclosure.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

Ref.: ID# 123271

Encl. Submitted documents

cc: Ms. Cynthia Curry
901 Main Street, Suite 4000
Dallas, Texas 75202-3793
(w/o enclosures)