



April 20, 1999

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR99-1054

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123551.

The City of Garland (the "city") received a request for a specific offense report. You state that the city has released certain responsive information to the requestor. You claim, however, that the remaining information is 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 submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Generally, a governmental body claiming an exception under section 552.108 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. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the submitted records relate to an ongoing investigation.

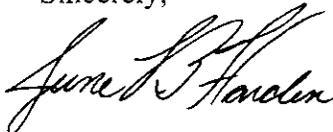
Based upon your representation that the requested information relates to a pending criminal investigation, we find that the release of the offense report would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. 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). Therefore, the city may withhold the offense report from disclosure under section 552.108(a)(1).

You also seek to withhold the identity of the victim and details of the assault under section 552.101. Generally, the identity of the victim or complainant may not be withheld from public disclosure. *See Gov't Code § 552.108(c)*. However, information tending to identify victims of serious sexual offenses and detailed descriptions of these offenses must be withheld from public disclosure pursuant to section 552.101 because such information is protected by common-law privacy. *See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982)*.

We note, however, that section 552.023 of the Government Code provides a person, or the authorized representative of a person, a special right of access to records held by a governmental body that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests. You have not indicated nor can we determine whether the requestor is acting as the victim's authorized representative. Therefore, if the requestor is acting as the victim's authorized representative, the city must release the victim's identifying information and the detailed description of the offense. If the city determines that the requestor is not seeking the information as the victim's authorized representative, the city must withhold the identifying information and the detailed description of the offense under section 552.101.

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.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 123551

encl. Submitted documents

cc: Mr. Marti Boyd
1752 Edgefield, #2003
Garland, Texas 75040
(w/o enclosures)