



July 16, 1999

Ms. Tracy B. Calabrese
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-1994

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126164.

The City of Houston (the "city") received a request for incident report number 045805198. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. You have submitted the responsive information to this office for review. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses the common-law right to privacy. The common-law right to privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Applying that standard, this office has held that the identities of victims of serious sexual offenses, and other information that might furnish a basis for identification of such victims, is confidential. Open Records Decision No. 339 (1982). This information must be withheld under section 552.101 of the Government Code.

Section 552.108 of the Government Code provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

...

(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;

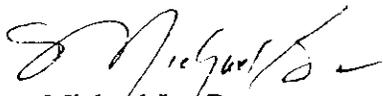
...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Information relating to a criminal investigation or prosecution that concluded in a result other than a conviction or deferred adjudication may be withheld under section 552.108(a)(2). You inform this office that the subject investigation "did not resulted in conviction or a deferred adjudication." Additionally, the report includes a notation that the case was refused for prosecution. Consequently, we find that you have shown the applicability of section 552.108(a)(2) to the requested information. However, "basic information" is not excepted. Gov't Code § 552.108(c). We consider "basic information" to be the type of information that is identified as front page offense report information in *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); *See* Open Records Decision No. 127 (1976). With the exception of confidential information, front page information must be released. Although section 552.108 provides that you may withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 126164

Encl. Submitted documents

cc: Ms. Melanie Bailey
Munisteri, Sprott, Rigby, Newsom & Vincent
3322 Richmond Avenue, Suite A
Houston, Texas 77098
(w/o enclosures)