



November 29, 1999

Mr. Steven D. Monte'
Assistant City Attorney
Supervisor, Criminal Law and Police Division
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-3415

Dear Mr. Monte':

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 131040.

The Dallas Police Department received a request for a specified arrest report. You claim that the requested information is excepted from public disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.108 of the Government Code provides in relevant part:

(a) Information held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] 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[.]

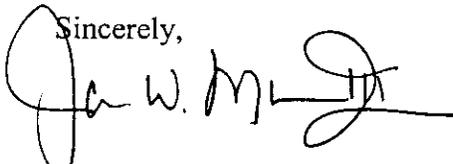
Unless the requested information supplies the explanation on its face, generally a governmental body claiming an exception under section 552.108 must sufficiently explain

how and why release of the information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 552.108(b)(1), 552.301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested arrest report pertains to an open case that has yet to result in a conviction or deferred adjudication. We therefore conclude that section 552.108(a)(1) of the Government Code excepts most of the requested information from required public disclosure. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (discussing law enforcement interests that are present in active cases). The information subject to release is that which is normally found on the front page of an arrest report. *See* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co.*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976).

You also state that the requested arrest report pertains to an alleged sexual assault. Generally, even front-page arrest report information that would tend to identify the victim of a sexual assault is protected by common-law privacy under section 552.101 of the Government Code. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision Nos. 393 (1983), 339 (1982). In this instance, however, the requestor is the victim of the alleged assault. Section 552.023 of the Government Code grants a person or the person's authorized representative a special right of access, beyond the right of the general public, to information held by a governmental body that relates to that person and that is protected from public disclosure by laws intended to protect that person's privacy interests. *See* Open Records Decision No. 650 (1996). Thus, under section 552.023, the requestor has a special right of access to the basic front-page arrest report information that otherwise would be excepted from disclosure 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,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', with a stylized flourish at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cwt

Ref: ID# 131040

Encl. Submitted documents