



January 14, 2000

Mr. Walter W. Leonard  
City Attorney  
City of Sansom Park  
One Summit Avenue, Suite 1010  
Fort Worth, Texas 76102

OR2000-0162

Dear Mr. Leonard:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131300.

The City of Samson Park (the "city") received a request for copies of complaints against two named Samson Park Police Department employees and the results of an internal police investigation of the same individuals. The city has released most of the requested information to the requestor. However, you claim that one section of the submitted document is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you assert that the information at issue may be withheld under section 552.108 due to an ongoing and active police investigation. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." However, as the information at issue is only tangentially related to the active criminal investigation, it may not be withheld under section 552.108.

You also argue that the information at issue is excepted from disclosure under section 552.101. Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Information may be withheld under section 552.101 in conjunction with common-law

privacy only if the information is highly intimate or embarrassing *and* it is of no 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).

In Open Records Decision No. 339 (1982), we concluded that a sexual assault victim has a common law privacy interest which prevents the disclosure of information that would identify her/him. As the memorandum includes information regarding a sexual assault, we conclude that the city must withhold information identifying the sexual assault victim from disclosure under section 552.101. We have marked the information that must be withheld. The remaining information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

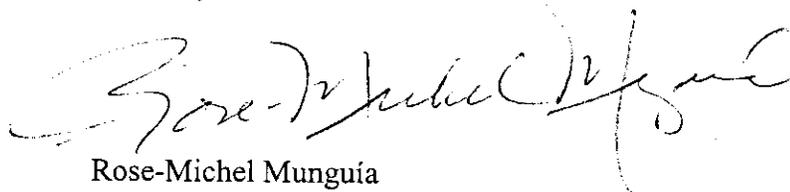
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía". The signature is fluid and cursive, with a large initial "R" and "M".

Rose-Michel Munguía  
Assistant Attorney General  
Open Records Division

RMM/jc

Ref: ID# 131300

Encl. Submitted documents

cc: Ms. Elizabeth Campbell  
Forth Worth Star-Telegram  
400 West 7<sup>th</sup>  
Forth Worth, Texas 76102  
(w/o enclosures)