



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 9, 1995

Ms. Sheree L. Rabe
Assistant City Attorney
City of Georgetown
City Attorney's Office
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-266

Dear Ms. Rabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32822.

The City of Georgetown (the "city") received a request for the complete copy of the file for Case No. 95-5388, a theft case, prepared by the city's police department. You inform us that the Justice of the Peace issued arrest warrants for the arrest of two individuals for a theft that occurred on March 28, 1995. You state that the county attorney has not yet seen the report, but that the county attorney may file charges. You contend that, with the exception of the front page of the offense report, the information requested is excepted from disclosure by section 552.108 of the Government Code.

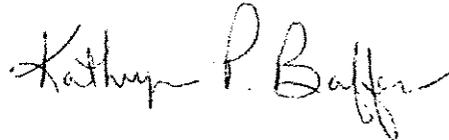
Section 552.108 provides that a record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure. Section 552.108 applies to the records created by an agency whose primary function is to investigate crimes and enforce the criminal laws. Open Records Decision Nos. 493 (1988) at 2, 287 (1981) at 2. Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic information ordinarily appearing on the first page of an offense report and in other records of law-enforcement relating to arrests. As a general rule, information which may be withheld is evidentiary information including: 1) information identifying witnesses; 2) the summary of a confession; 3) an investigator's views regarding the guilt of a suspect or the credibility of witnesses; and 4) records of property confiscated at the scene of the crime. Open Records Decision No. 127 (1976).

The kinds of basic information not excepted from disclosure by section 552.108 include the following information about the crime: 1) the name, age, address, race, sex, occupation, alias, and physical condition of the person, 2) the location of the crime, 3) the identification and description of the complainant, 4) the premises involved, the time of the occurrence of the crime; and 5) a detailed description of the offense. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curium*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 4.

Because the investigation of the theft case is continuing, we conclude that such information as that listed in *Houston Chronicle Publishing Co.* as open to the public, some of which is not on the first page of the offense report but appears elsewhere in the report, is subject to disclosure. See Open Records Decision No. 394 (1983). The city may withhold the remaining information in the file based on section 552.108.

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 may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 32822

Enclosures: Submitted documents

cc: Mr. Robert R. Reza
811 Saunders Drive
Round Rock, Texas 78664
(w/o enclosures)