



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 11, 1995

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

OR95-553

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29687.

The City of Garland (the "city") received an open records request for a copy of a "911" tape recording involving certain individuals. You contend that the requested "911" tape is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

In a criminal case that is under active investigation, section 552.108 excepts from disclosure all information except that found on the first page of the offense report. *See generally 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 curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). As a general rule, the information that can be withheld is evidentiary information and the information that must be released includes basic information about the arrested person, the arrest and the crime. Although the basic information is generally available to the public, it may be withheld in active cases if it satisfies the same test used to determine whether information in closed cases may be excepted under section 552.108. *See* Open Records Decision No. 366 (1983) at 3 (first page of offense report is not protected by Gov't Code § 552.108 except in circumstances where release of particular information would "unduly interfere with law enforcement or crime prevention"). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

You explain that the Dallas County Grand Jury has indicted the requestor's client and that the case is currently pending in a Dallas County District Court. Therefore, you have shown that the information at issue relates to an active case. Thus, with the following exception, it may be withheld from required public disclosure under section 552.108. We have listened to the "911" tape and have determined that the tape contains first page offense report information, that is, the name and address of the "911" caller. You have not demonstrated how the release of first page offense report information "will unduly interfere with law enforcement or crime prevention." Accordingly, you must release any first page offense report information.¹

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/SAB/rho

Ref: ID# 29687

Enclosures: Submitted documents

cc: Mr. Robert M. Burns
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(w/o enclosures)

¹We need not at this time address section 552.103 because it may not be invoked to withhold from public disclosure basic information in an offense report that has already been made available to the defendant in the criminal litigation. See Open Records Decision No. 597 (1991).