



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1995

Ms. Judith A. Hunter
Paralegal
City Attorney's Office
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-1183

Dear Ms. Hunter:

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# 36420.

The City of Georgetown (the "city") received an open records request from an individual for the police report pertaining to his recent DWI arrest. The requestor also specifically asks for "the results of the breathalyzer." You seek to withhold the requested records from the requestor pursuant to the "law-enforcement" exception, section 552.108 of the Government Code.

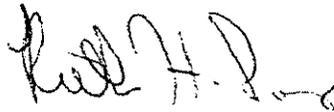
In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.-Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the court of civil appeals established the guidelines on what constitutes public information contained in police files. The court's holding was summarized in Open Records Decision No. 127 (1976), which concludes that "front page" offense report information is normally public information. Where an incident involving allegedly criminal conduct is under active investigation or prosecution, most remaining information held by the police may be withheld pursuant to section 552.108. *Id.*

We note, however, that the requestor has a statutory right of access to the results of his own intoxilyzer test pursuant to section 724.018 of the newly enacted Transportation Code. *See* Act of April 21, 1995, 74th Leg., R.S., ch. 165, § 1, 1995 Tex. Sess. Law Serv. 1025, 1822. *See also* Open Records Decision No. 478 (1987) at 2

(regarding predecessor statute V.T.C.S. art. 67011-5, § 3(e)). Where a statute provides an individual with a special right of access to information, that information may not be withheld from that individual pursuant to the law-enforcement exception. *See, e.g.*, Open Records Decision No. 613 (1993). Accordingly, the city must release the intoxilyzer results as well as the "front page" offense report information to the requestor. The remaining information contained in the police report may be withheld from the requestor at this time pursuant to 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 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 36420

Enclosures: Submitted documents

cc: Mr. David Gardner
P.O. Box 471
Jarrell, Texas 76537
(w/o enclosures)