



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 2, 1996

Mr. Novert A. Morales  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR96-1379

Dear Mr. Morales:

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# 40651.

The City of Midland (the "city") received an open records request for all public documents related to the arrest and charge of an individual for "simple assault by threat." You state that the requested information relates to the investigation of criminal allegations, and therefore seek to withhold the police report pursuant to section 552.108 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

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." Gov't Code § 552.108; *See Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). You state that the requested information relates to the investigation of criminal allegations. The information is therefore "an internal record or notation of a law enforcement agency ... that is maintained for internal use in matters relating to law enforcement or prosecution."

We note, however, that information normally found on the front page of an offense report is generally considered public.<sup>1</sup> *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.*

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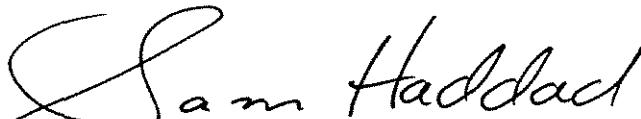
<sup>1</sup>The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

*per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report.

You state that you have released to the requestor the types of information contained in the requested police report held to be public in *Houston Chronicle Publishing Company*.<sup>2</sup> However, you seek to withhold the remaining portions of the requested information as you inform us that "the release of the report would hinder the investigation" in a criminal case. We, therefore, conclude that except for front page offense report information, the city may withhold the remaining portions of the report from required public disclosure pursuant to section 552.108 of the Government Code.<sup>3</sup> *Id.*

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.

Yours very truly,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/ch

Ref.: ID# 40651

Enclosures: Submitted documents

cc: Mr. James P. Boldrick  
Boldrick, Clifton, Nelson & Holland  
1801 West Wall  
Midland, Texas 79701  
(w/o enclosures)

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<sup>2</sup>Among the categories of information held to be public in *Houston Chronicle* are a detailed description of the offense and the details of the arrest. *Id.* These categories of information are not among the portions of the offense report that you indicate have been released. Consequently, the city must release this information to the requestor.

<sup>3</sup>Section 552.108 is discretionary with the governmental entity asserting the exception, therefore, you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.