



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 21, 1996

Mr. George A. Staples, Jr.
City Attorney
City of Hurst
701 Texas Commerce Bank Building
860 Airport Freeway West
Hurst, Texas 76054

OR96-1507

Dear Mr. Staples:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act. Your request was assigned ID# 100204.

The City of Hurst (the "city") received a request for a copy of an affidavit supporting an arrest warrant in a particular matter. You contend that the requested information is excepted from disclosure by sections 552.101, 552.103, and 552.108 of the Government Code. You have provided a copy of the requested information for our review.

The public has a common-law right to inspect and copy judicial records. *See* Attorney General Opinion DM-166 (1992). Absent a valid court order to the contrary, documents that are filed in the court clerk's office are available for public inspection under common-law. *Id.* Therefore, if the affidavit was filed with a court and it is not made confidential by court order, you must release the affidavit.

In the event that the affidavit was not filed with a court, we consider the other exceptions to disclosure that you raise. 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). We note, however,

that information normally found on the front page of an offense report is generally considered public.¹ *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). Thus, if the requested affidavit is not a public court record, you may withhold this information from public disclosure under section 552.108, except for information that is considered to be front page offense report information. You may, however, choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 100204

Enclosures: Submitted documents

cc: Mr. Randall W. Harvison
2801 Glenda Avenue
Fort Worth, Texas 76117
(w/o enclosures)

¹The 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*.