



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 5, 1996

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

OR96-1587

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100690.

The City of Georgetown (the "city") received two requests for copies of offense reports and videotapes made upon the requestors' arrests on June 9, 1996. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.¹

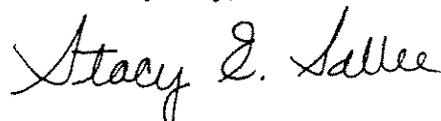
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an

¹With regard to the requested videotapes, you state that no videotape was made in connection with Mr. Montoya's arrest. You state that the videotape made in connection with Ms. Montoya's arrest has been turned over to the County Attorney. We note that a governmental body is not required to take affirmative steps to create or obtain information that is not in its possession. Open Records Decision No. 534 (1989). However, if the County Attorney is holding the videotape on behalf of the city, then the city still retains the ultimate responsibility for disclosing or withholding information in response to a request under chapter 552 of the Government Code. Open Records Decision No. 576 (1990); *cf.* Open Records Decision No. 231 (1979) (when governmental body obtains information for its own administrative purposes information from another entity, the information becomes the record of receiving governmental body).

offense report is generally considered public.² *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). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure. On the other hand, you may choose to release all or part of the information 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,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 100690

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)

cc: Ms. Christine Montoya
105 Reinhardt Court
Georgetown, Texas 78626
(w/o submitted documents; with Summary of Open Records Decision
No. 127 (1976))

²The 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*. We enclose for your information a copy of the summary of information deemed public by *Houston Chronicle*, as we believe some of the information highlighted on the first pages of the offense reports falls within the types of information that are public under *Houston Chronicle*. We also note that the city has not released a detailed description of the offense as required by *Houston Chronicle*.

Mr. Carlos Montoya
105 Reinhardt Court
Georgetown, Texas 78626
(w/o submitted documents; with Summary of Open Records Decision
No. 127 (1976))