



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 9, 1996

Mr. Patrick S. Dohoney
Assistant District Attorney
Tarrant County, Texas
Justice Center
401 West Belknap
Fort Worth, Texas 76196-0201

OR96-1634

Dear Mr. Dohoney:

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# 100729.

The Tarrant County Sheriff's Department (the "department") received a request for a certain offense report. You say the department has released the front page of the requested report, but that the remainder of the report is excepted from required public disclosure based on sections 552.101, 552.103 and 552.108 of the Government Code. You have submitted to this office a copy of the entire report for our review.

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). Information normally found on the front page of an offense report is generally considered public. *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 report from required public disclosure.¹

¹On the other hand, because section 552.108 is a discretionary rather than a mandatory exception, you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

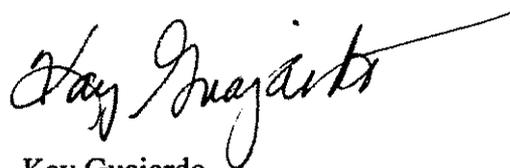
However, the location of the information is not determinative of its status under section 552.108. The information in the report that must be released may appear elsewhere in the report although it is often described as "front-page offense report information." We note that among the list of basic information not excepted from public disclosure under section 552.108 are the details of the crime. *See id.* These details appear in the narrative portion of the report at issue. Thus, the department may not withhold those details from public disclosure based on section 552.108.

We will consider whether section 552.101 or 552.103 excepts the details of the arrest. You raise section 552.101 of the Government Code, which excepts information made confidential by law, in order to protect the privacy rights of the victim and a witness of the crime. However, as the requestor is a victim in the report, her privacy rights would not be implicated by the release of the details of the arrest to her. *See Open Records Decision No. 611 (1992).* Additionally, we have already concluded that the department may withhold from public disclosure the information about the witness pursuant to section 552.108.

Section 552.103 excepts from required public disclosure information that relates to pending or reasonably anticipated litigation. *See Open Records decision No. 588 (1990).* You do not state that litigation is pending. You state that "[a]s shown in the information provided to your office, the State of Texas would be the names Plaintiff if criminal litigation were to ensue." We conclude that the county has failed to establish that litigation is reasonably anticipated. *See Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.) (arrest by itself insufficient to establish reasonably anticipated litigation). Consequently, the department may not withhold the details from public disclosure based on section 552.103. Therefore, the department must release to the requestor the part of the narrative that discloses the details of the arrest.

We are resolving this matter with this 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 may 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 100729

Enclosures: Submitted documents

cc: Sharon Johnston Dunavant
8419 Elmar Street
Fort Worth, Texas 76108
(w/o enclosures)