



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 13, 1996

Ms. Marcelle Sattiewhite Jones  
Assistant City Attorney  
Office of the City Attorney  
City of Arlington  
200 West Abram Street, Box 231  
Arlington, Texas 76004-0231

OR96-1662

Dear Ms. Sattiewhite Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100673.

The City of Arlington (the "city") received a request for "911 audio tape, videotapes, affidavits, reports, statements" regarding a domestic assault incident. You submitted to this office for review, in response to the request, an audio tape and transcript of the 911 calls, an offense report and an affidavit. You assert that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submissions at issue.

Section 552.108 of the Government Code, sometimes referred to as the "law enforcement" exception, 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). You state that the requested information relates to the investigation of an assault charge, which is still pending in the city's municipal court. After reviewing the tape recording of the 911 call and the other submitted information, we conclude that they are protected by section 552.108 of the Government Code. You may, therefore, withhold the submitted information.<sup>1</sup>

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<sup>1</sup>As we resolve your request under section 552.108, we need not address your claimed exception under section 552.103(a) at this time.

However, we note that information normally found on the front page of an offense report is generally considered public.<sup>2</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. 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.<sup>3</sup> We, therefore, conclude that except for front page offense report information, the city may withhold the submitted information. Although section 552.108 authorizes you to withhold the requested information, we note also that since section 552.108 is discretionary with the governmental entity asserting the exception, you may choose to release all or part of the other 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 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,



Sam Haddad

Assistant Attorney General  
Open Records Division

SH/ch

Ref.: ID# 100673

Enclosures: Tape recording and submitted documents

cc: Mr. Charles Malloy  
3232 McKinney Avenue, Suite 680  
Dallas, Texas 75204  
(w/o enclosures)

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<sup>2</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*.

<sup>3</sup>Similarly, section 552.103(a) cannot be invoked to withhold from public disclosure basic front page offense report information that has already been made available to a defendant in criminal litigation. Open Records Decision No. 597 (1991).