



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 9, 1997

Captain Robert Taylor
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR97-2252

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110484.

The Amarillo Police Department (the "department") received a request for incident report number 97-64269. You assert that the requested information is excepted from disclosure under sections 552.101¹ and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents submitted.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

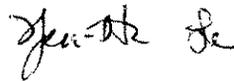
(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

¹Although you claim that section 552.101 applies to except the requested information from disclosure, you do not explain how section 552.101 applies to any specific information. Chapter 552 of the Government Code places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). However, as section 552.101 is a mandatory exception, we have reviewed the documents to ascertain whether any of the submitted information is confidential either by statute, by judicial decision, or under constitutional or common-law privacy. We conclude that there is no confidential information or information protected by privacy in the submitted documents. See Open Records Decision No. 272 (1981) (right of privacy lapses upon death). Therefore, section 552.101 does not except the requested information from required public disclosure.

Because the requested information deals with the investigation of crime that did not result in conviction or deferred adjudication, it is excepted from disclosure under section 552.108(a). However, "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is 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. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.3d 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). Therefore, except for basic information, section 552.108(a) authorizes you to withhold the requested information from disclosure. You may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

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Ref: ID# 110484

Enclosures: Submitted documents

cc: Ms. Cheryl L. Huffman
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Greensboro, North Carolina 27410
(w/o enclosures)