



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 4, 1998

Captain Robert Taylor  
Amarillo Police Department  
200 S.E. Third Avenue  
Amarillo, Texas 79101-1514

OR98-0331

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112683.

The Amarillo Police Department (the "department") received a request for incident report number 97-110515. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(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; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You assert that the report at issue is excepted from disclosure "because the case has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication against any person." Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) should demonstrate that the requested information relates to a concluded criminal investigation that has come to some type of final result other than a conviction or deferred adjudication. Upon review of the submitted documents, we note that this case was declared closed, and it appears that the investigation did not result in conviction or deferred adjudication. Therefore, you may withhold the requested information from public disclosure under section 552.108(a)(2).

However, we note that 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, including the identification and description of the complainant, even if this information is not actually located on the front page of the offense report.<sup>1</sup> See generally *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (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, we conclude that, except for basic information, section 552.108(a)(2) of the Government Code excepts the requested information from public disclosure. Although section 552.108 authorizes you to withhold the information from public 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 on as a previous

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<sup>1</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*.

determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/alg

Ref.: ID# 112683

Enclosures: Submitted documents

cc: Ms. Jackie Anderson  
533 S.W. 51st Street  
Oklahoma City, Oklahoma 73109  
(w/o enclosures)