



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 8, 1998

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

OR98-1188

Dear Ms. Hunter:

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# 114583.

The City of Georgetown (the "city") received a request for information concerning two specified offense reports. In response to the request, you submit to this office for review a copy of the records which you assert are responsive. Based on your letter, it is our understanding that the city has provided the requestor with front page information from the responsive offense reports.<sup>1</sup> You contend that the other information responsive to the request is excepted from disclosure pursuant to section 552.108 of the Government Code, and section 552.101 in conjunction with the informer's privilege. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You explain that "all information in the report is related to a case under active investigation." Since there is an active investigation, we agree that you have shown that release of this information would interfere with the

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<sup>1</sup>Certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally* *Houston Chronicle Publ'g 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).

prosecution of crime. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14<sup>th</sup> dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases) *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). Therefore, except for basic information normally found on the front page of an offense report, including a detailed description of the offense, you may withhold the remaining information from disclosure pursuant to section 552.108.<sup>2</sup>

You further seek to withhold the identity of the complainant because the city considers this person to be an informer. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); Open Records Decision Nos. 582 (1990), 515 (1988). The informer's privilege does not, however, categorically protect from release the identification and description of a complainant, which is front page offense report information generally considered public by *Houston Chronicle*. *See* Gov't Code § 552.108(c); *Houston Chronicle*, 536 S.W.2d 559; Open Records Decision No. 127 (1976).<sup>3</sup> The identity of a complainant, whether an "informer" or not, may only be withheld upon a showing that special circumstances exist.

We have addressed several special situations in which front page offense report information may be withheld from disclosure. For example, in Open Records Decision No. 366 (1983), this office agreed that the statutory predecessor to section 552.108 protected from disclosure information about an ongoing undercover narcotics operation, even though some of the information at issue was front page information contained in an arrest report. The police department explained how release of certain details would interfere with the undercover operation, which was ongoing and was expected to culminate in more arrests. Open Records Decision No. 366 (1983); *see* Open Records Decision No. 333 (1982) at 2; *cf.* Open Records Decision Nos. 393 (1983) (identifying information concerning victims of sexual assault), 339 (1982), 169 (1977) at 6-7, 123 (1976).

Based upon the information provided to this office, we do not believe that you have shown special circumstances sufficient to overcome the presumption of public access to the complainant's identity. Consequently, we conclude that the city must release the front-page report information including the complainant's name. However, the city may withhold the complainant's telephone number, since this information is generally not front page offense report information.

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<sup>2</sup>We note that the city has discretion to release all or part of the information at issue that is not otherwise made confidential by law. Gov't Code § 552.007.

<sup>3</sup>We note that in Open Records Decision No. 127 (1976), this office concluded that "the identification and description of witnesses" is information which is protected by section 552.108 of the Government Code.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 114583

Enclosures: Submitted documents

cc: Ms. Harold R. Bauer  
550 W. 22<sup>nd</sup> Street  
Georgetown, Texas 78626  
(w/o enclosures)