



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

Ms. Thomas H. Arnold  
City Attorney  
City of Texarkana  
P.O. Box 1967  
Texarkana, Texas 75504

OR98-1398

Dear Mr. Arnold:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 115927.

The City of Texarkana (the "city") received a request for a copy "of all records, papers, and documents concerning an incident where charges were filed" against the requestor in 1994. In response to the request, you submit to this office for review the records which you assert are responsive. You assert that the information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Initially, we note that among the records you have submitted to our office for review you included what appears to be a complaint, an arrest warrant, a probable cause arrest warrant affidavit, and a personal bond. If the submitted complaint, arrest warrant, arrest warrant affidavit, and personal bond have been filed with a court, they are part of the public record and must be released. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (orig. proceeding). If, however, this information was not filed with a court, we will consider whether the affidavit and the remaining records are protected from disclosure by section 552.108 of the Government Code.

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

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 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;

....

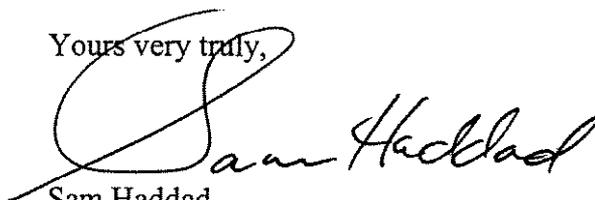
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You assert that "[s]ection 552.108(a)(2) provides an exception to public disclosure" for the file, since the case against the requestor was dismissed and did not result in a conviction or deferred adjudication. Consequently, we find that you have shown the applicability of section 552.108(a)(2) for most of the information at issue which has not been filed with a court.

As you have noted, 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); *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). Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." 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.<sup>1</sup> Therefore, we conclude that, except for basic front page information and records filed with a court, the requested records may be withheld under section 552.108(a)(2) of the Government Code, though the city also has discretion to release all or part of this information 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 should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Sam Haddad  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>For your convenience, we have enclosed a list of the types of information deemed public by *Houston Chronicle*. Open Records Decision No. 127 (1976).

Sh/rho

Ref.: ID# 115927

Enclosures: Submitted documents  
Summary of Open Records Decision No. 127 (1976)

cc: Mr. Melvin W. Parker  
1004 Ele Street  
Texarkana, Texas 75501-3018  
(w/o enclosures)