



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 23, 1998

Ms. Roxann Pais
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1733

Dear Ms. Pais:

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# 116799.

The Dallas Police Department (the "department") received a request "[f]or 1994, 1995, 1996, all incident reports and/or 911 calls for the Beat area which includes the property located at 5500 Lemmon Avenue, Dallas, Texas 75209." In response to the request, you submitted to this office for review a representative sample of the information which you assert is responsive.¹ You state that "[a]ll 911 service calls and the majority of all incident reports requested will be released to the requestor." However, you assert that some of the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted documents.

You state: "[t]he requested information are records of [the department] that deal with the investigation and prosecution of crimes and have not resulted in a conviction or deferred adjudication." Section 552.108(a) of the Government Code provides, in part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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; (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.

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). You have submitted files which although suspended are still pending. Because you have informed us that the records at issue pertain to pending investigations that are suspended, we conclude that you have met your burden of establishing that the release of those records at this time could interfere with law enforcement or prosecution. The department, therefore, may withhold most of the information contained in those files at this time pursuant to section 552.108(a)(1).

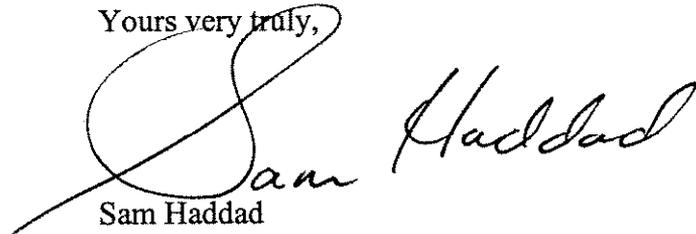
However, we note that basic information about an arrested person, an arrest, or a crime is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information, including the identification and description of the complainant, even if this information is not actually located on the front page of the offense report.² 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 subject to release, section 552.108(a)(1) excepts the remaining information from public disclosure.³

²The 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*.

³Although 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 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/mjc

Ref.: ID# 116799

Enclosures: Submitted documents

cc: Ms. Diana Alonzo
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