



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 31, 1998

Mr. Mark A. Flowers  
Assistant City Attorney  
The City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR98-1802

Dear Mr. Flowers:

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# 117387.

The City of Midland Police Department (the "department") received a request for an offense report, concerning a specified individual. In response to the request, you submit to this office for review a copy of the information at issue. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

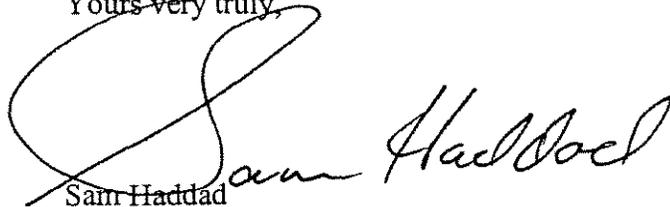
Section 552.108, the "law enforcement exception," excepts from public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation or prosecution of crime. Generally, a governmental body claiming an exception under section 552.108 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. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that "it is the City's position that the narrative index in its entirety . . . is pertinent to an active, open, and pending investigation in the Midland District Attorney's Office - Misdemeanor Division and is thereby exempted from disclosure, pursuant § 552.108 of the Government Code." Because you have shown that release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that most of the requested information may be withheld under section 552.108(a)(1). *See 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); Open Records Decision No. 216 (1978).

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 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.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); Open Records Decision No. 127 (1976). Front page offense report information includes a detailed description of the offense, which is required to be disclosed under *Houston Chronicle*. *See* Open Records Decision No. 127 (1976). Thus, except for basic information including a detailed description of the offense, the remaining information is excepted from disclosure under section 552.108(a)(1). Although section 552.108(a)(1) 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,

A handwritten signature in black ink, appearing to read "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/mjc

Ref: ID# 117387

Enclosures: Submitted documents

cc: Mr. James W. Klipstine, Jr.  
1601 North Turner, Suite 320  
Hobbs, New Mexico 88240  
(w/o enclosures)