



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 22, 1998

Ms. Linda Storey Mahar  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR98-3232

Dear Ms. Mahar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121068.

The Harris County Precinct 5 Constable (the "county") received a request for all complaints against David R. Perkins. You claim that the requested information is excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents submitted.

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

(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. . . .

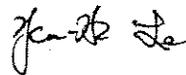
Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the "requested complaint is part of the federal criminal investigation and prosecution of certain police officers involved" in the shooting death of a certain individual. Because you have shown that release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that 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 [14th 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 also* Open Records Decision Nos. 493 (1988) at 2 (construing predecessor statute) (section 552.108 applies to administrative agency's information which reveals possible criminal conduct that the agency intends to report or already has reported to the appropriate law enforcement agency if its release would unduly interfere with law enforcement), 272 at 1-2 (1981) (records that otherwise qualify for the section 552.108 exception, such as documentary evidence in a police file on a pending case, do not necessarily lose that status while in the custody of an agency not directly involved with law enforcement).

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 [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, except for basic information, the remaining requested information is excepted from disclosure under section 552.108(a)(1).

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 121068

Enclosures: Submitted documents

cc: Mr. P.M. Clinton  
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P.O. Box 801141  
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(w/o enclosures)