

January 11, 1999

Mr. Michael Bostic
Assistant City Attorney
Office of the City Attorney
Criminal Law and Police Division
Municipal Building
Dallas, Texas 75201



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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OR99-0053

Dear Mr. Bostic:

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# 120992.

The City of Dallas Police Department (the "department") received a request for the "Public Integrity file" and "Internal Affairs file" concerning the requestor. In response to the request, you submit to this office for review a representative sample of the information at issue.¹ You indicate that the department has "no objection to releasing first page information related to this investigation." However, you assert that the remaining information is excepted from disclosure based on sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the representative sample of 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

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). 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.

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 information is excepted from required disclosure under section 552.108(a)(1) "as it relates to information that is the subject of a prosecution of a crime."² 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).

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).³

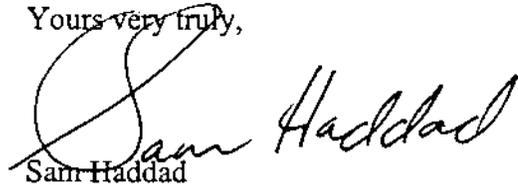
As we resolve your request under section 552.108, we need not address your other claimed exception at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and

²However, we note that section 552.108 is not applicable when no criminal investigation is undertaken. *See Morales v. Ellen*, 840 S.W.2d at 526 (predecessor statute to section). Furthermore, this office has determined that section 552.108 does not protect general personnel information from public disclosure. Open Records Decision No. 562 at 10 (1990) (applying predecessor statute).

³Although section 552.108 authorizes you to withhold the remaining 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.

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/nc

Ref: ID# 120992

cc: Mr. Demetrius Morgan
2826 S. Highway 360 # 1022
Grand Prairie, Texas 75052
(w/o enclosures)