

February 4, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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P.O. Box 12548
Austin, Texas
78711-2548

(512) 463-2100
www.oag.state.tx.us

Ms. Sharon Sela
Assistant City Attorney
Office of the City Attorney
City Hall
Municipal Building
Dallas, Texas 75201

OR99-0323

Dear Ms. Sela:

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# 121639. Your office has assigned this request tracking number ORR98-1685.

The City of Dallas Police Department received a request for "all service (911) calls" for a particular location during a specified time period, and "offense/incident reports" for a specified individual.¹ In response to the request, you submit to this office for review a representative sample of the information at issue. You assert that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

As for your section 552.101 claimed exception,² we believe that a prior ruling, Open Records Letter No. 98-2551 (1998), answers your questions concerning

¹Generally, a request for all records of a named individual is a request for criminal history information ("CHRI"), which is confidential pursuant to the individual right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). However, in this instance, since the subject of the request was the complainant or a witness in the submitted offense reports, we conclude that a right of privacy is not implicated. In the future, we advise you to exercise caution in releasing information to the public, when the request is phrased in terms of "all records" concerning a particular individual. *See Gov't Code* § 552.352.

² Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

originating telephone numbers and addresses on 911 call reports. *See* Open Records Decision No. 649 (1996). You may rely upon ORL 98-2551 (enclosed) as a previous determination on this issue under section 552.301 of the Government Code, and thus need not ask this office again for a decision concerning these types of records.³ We assume the remaining information, from the service call reports, for which you have not raised an exception, will be released.

Section 552.108, the “law enforcement,” exception excepts from required public disclosure

(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;

(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

....

(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. 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). Although you have not cited any particular subsection of section 552.108, you state that “the request includes information where one of the cases is pending in County Criminal Court #10 and the others will be pending and/or are currently under investigation.” Based on your representation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g*

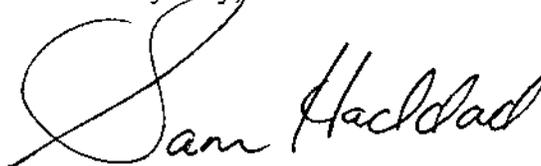
³Although you have raised section 552.108 of the Government Code as an exception to disclosure for the 911 service call reports, we note that the Open Records Act’s exceptions do not, as a general rule, apply when the release of information is expressly controlled by other statutes. Open Records Decision No. 525 (1989).

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). Therefore, we conclude that, except for the front page information, the department may withhold the submitted incident reports from disclosure under section 552.108(a)(1).

However, as you are aware, certain 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); *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. Although section 552.108 authorizes you to withhold the remaining 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.⁴ 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

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⁴In conclusion, we 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. As you have only submitted a representative sample of the requested records, we note that to the extent the responsive records contain confidential information, we advise you to exercise caution in releasing the information to the public. *See* Gov't Code § 552.352.

Ref: ID# 121639

Enclosures: Submitted documents
Open Records Letter No. 98-2551 (1998)

cc: Mr. Chris Bonnell
222 W. Las Colinal Blvd., Suite 830
Irving Texas 75039
(w/Open Records Letter No. 98-2551 (1998))