



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Ms. Sheree L. Rabe
Assistant City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-607

Dear Ms. Rabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33649.

The City of Georgetown (the "city") received an open records request for any and all information pertaining to an incident involving Mauricio Castillon and a Ryder truck. During the incident, Castillon was arrested and the Ryder truck he was driving was impounded. You inform us that you have given a copy of the booking slip to the requestor and "will be releasing the first page of the arrest report." You state that charges are pending currently in municipal court and that you intend to prosecute this case. You contend that because the information requested addresses the investigation and prosecution of the offenses of public intoxication, possession of drug paraphernalia, and failure to identify that the information which you have not already disclosed to the requestor is excepted from required disclosure by section 552.108 of the Government Code. You have submitted for our review a copy of the arrest report.

Section 552.108(a) provides that "[a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" is excepted from required public disclosure. Section 552.108 applies to the records created by an agency whose primary function is to investigate crimes and to enforce the criminal laws. Open Records Decision Nos. 493 (1988) at 2, 287 (1981) at 2. Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic information ordinarily appearing on the first page of an offense report and in other records of law enforcement relating to arrests. As a general rule, information which may be withheld is evidentiary information including:

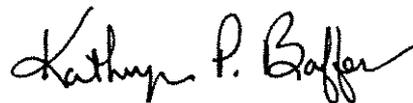
a) information identifying witnesses; b) the summary of a confession; c) an investigator's views regarding the guilt of a suspect or the credibility of witnesses; and d) records of property confiscated at the scene of the crime. Open Records Decision No. 127 (1976) at 4. The names and statements of witnesses may be withheld if it is determined that, from the examination of the facts of the particular case, disclosure might either subject the witnesses to possible intimidation or harassment or harm the prospects of future cooperation between witnesses and law enforcement officers. Open Records Decision No. 297 (1981) at 2.

The kinds of basic information not excepted from disclosure by section 552.108 include the following information about the crime: a) the name, age, address, race, sex, occupation, alias, and physical condition of the person; b) the location of the crime; c) the identification and description of the complainant; d) the premises involved; the time of the occurrence of the crime; and e) a detailed description of the offense. *Houston Chronicle Publishing 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) at 4.

After reviewing the arrest report, we conclude that you must disclose the information such as that listed in *Houston Chronicle Publishing Co.* but may withhold the remainder of the information pursuant to section 552.108 of the Government Code.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 may not be relied upon as a previous determination under section 552.301 regarding any other records.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 33649

¹In so ruling, we assume that any of the information not of the kind which is held to be public under *Houston Chronicle Publishing Co.* does not appear in court records. See *Star Telegram v. Walker*, 836 S.W.2d 54 (Tex. 1992) (no privacy interest in information found in public court documents).

Enclosures: Submitted documents

cc: Ms. Cynthia Chandler
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(w/o enclosures)