



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 14, 1997

Mr. Robert Taylor
Assistant City Attorney
City of Amarillo
Legal Department
P.O. Box 1971
Amarillo, Texas 79105-1971

OR97-0801

Dear Mr. Taylor:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105186.

The Amarillo Police Department (the "department") received a request for a particular incident report. You assert that the requested report is excepted from required public disclosure based on section 552.108 of the Government Code. You have provided information showing that the complainant does not wish certain identifying information concerning the incident to be disclosed.

It appears that you are asserting that the complainant is an informer.¹ Texas courts have recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under chapter 552. Open Records Decision No. 549 (1990) at 4. However, the privilege excepts an informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision Nos. 549 (1990) at 5, 202 (1978) at 2 (informer's privilege exception not applicable when identity of informer is known to subject of communication). The informer's privilege is inapplicable in this particular situation.

You state that "the complainant of the report, who is also a witness, has indicated to the Amarillo Police Officer taking the Report that he does not want his name, address,

¹We note that the informer's privilege is encompassed by section 552.101, rather than section 552.108, of the Government Code.

or home number release[d] and that if they are released that this will harm the prospect of future cooperation by him as a witness.”² Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” See *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996).

The type of information normally found on the front page of an offense or arrest report is generally considered to be public information. See generally *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). Included in the categories of information usually open to the public are a detailed description of the incident, the location of the incident, and identification and description of the complainant. *Id.* This information could be identifying as to a complainant.

There are special situations in which front page offense report information may be held from disclosure. For example, in Open Records Decision No. 366 (1983), this office agreed that the statutory predecessor to section 552.108 protected from disclosure information about an ongoing undercover narcotics operation, even though some of the information at issue was front page information contained in an arrest report. The police department explained how release of certain details would interfere with the undercover operation, which was ongoing and was expected to culminate in more arrests. Also, in Open Records Decision No. 333 (1982), this office agreed that certain front page arrest report information could be withheld from disclosure. The information in question identified certain individuals as being informants and potential informants. *Id.* at 2. Some of the front page information specifically identified individuals being considered by the vice division in targeting certain locations. *Id.*

Based upon the information provided to this office, we do not think that you have shown special circumstances sufficient to overcome the presumption of public access to front page information. Consequently, we conclude that the department must release the front-page report information. However, the department may withhold the remainder of the report from required public disclosure pursuant to section 552.108(a) of the Government Code.

We are resolving this matter with this 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

²We note that it is not clear that telephone numbers are generally front page offense report information.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 105186

Enclosures: Submitted documents

cc: Ms. Malinda Richardson
2009 North Orange
Amarillo, Texas
(w/o enclosures)

