



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 7, 1998

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager
& Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR98-0916

Dear Mr. Marshall:

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# 113807.¹

The City of Coppell (the "city"), which your office represents, received a request for information related to a driving while intoxicated arrest. In response to the request, you submitted to this office for review a copy of the records, which you assert are responsive. Based on your letter, it is our understanding that the city has provided the requestor with front page information from the responsive offense reports.² You contend that the remaining information responsive to the request is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

¹Initially, we note that you sent to our office for ruling two open records requests submitted to the city by two different requestors for unrelated information. Although this practice may be convenient to your administration of open records requests, our office administration of these distinct open records requests requires us to assign two different file identification numbers to the requests. The first request which you identified as No. 4033 is assigned ID# 113807, and the second request identified as No. 4034 by your office will be issued separately as ID# 115826.

²Certain 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 (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).

Section 552.108 of the Government Code provides in part:

(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.

....

(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).

You explain that the requested documents relate to an “offense [which] is currently pending prosecution, and has not yet proceeded to Court.”³ Under these circumstances, we conclude that the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *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). Accordingly, we conclude that the city may withhold most of the requested information from the requestor based on section 552.108(a)(1). As you have noted, 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*, 531 S.W.2d 177; Open Records Decision No. 127 (1976). Although section 552.108(a)(1) authorizes you to withhold the remaining 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.

³Although you also argue that the “criminal investigation has not yet resulted in conviction or deferred adjudication,” we note that you have not shown that the requested information relates to a criminal investigation or prosecution that *did not* result in a conviction or a deferred adjudication. Consequently, we find that you have not shown the applicability of section 552.108(a)(2) or (b)(2) to the submitted information.

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 any 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/rho

Ref: ID# 113807

Enclosure: Submitted document

cc: Ms. Elizabeth W. Hutchins
449 Harris D-102
Coppell, Texas 75019
(w/o enclosure)