



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 23, 1998

Captain Robert Taylor  
Amarillo Police Department  
City of Amarillo  
200 S.E. Third Avenue  
Amarillo, Texas 79101-1514

OR98-2274

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 118270.

The City of Amarillo Police Department (the "department") received a request for specific police reports, identified as incident report numbers 98-55954 and 98-55888. In response to the request, you submitted to this office for review a copy of the incident reports which you assert are responsive. You indicate that the department will release the front page offense report information to the requestor. *See generally* Gov't Code § 552.108(c); *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). However, you contend that the remaining information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and have reviewed the documents at issue.

We first consider whether incident report number 98-55954 may be withheld pursuant to the claimed exception. Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the

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<sup>1</sup>You assert that incident report number 98-55954 is excepted from required public disclosure pursuant to section 552.108(a)(2), while incident report number 98-55888 is excepted from required public disclosure pursuant to section 552.108(a)(1).

detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” You state that the information at issue, in incident report number 98-55954, relates to an investigation which did not result in conviction or deferred adjudication. Based upon your representations and upon our review of this incident report, we conclude that you may withhold the remaining requested information under section 552.108(a)(2).<sup>2</sup>

As for incident report number 98-55888, we note that since the act prohibits the release of confidential information and its improper release constitutes a misdemeanor, the attorney general will raise section 552.101 on behalf of a governmental body. *See* Open Records Decision No. 455 (1987). Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 261.201 of the Family Code reads in part as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We believe that the requested information consists of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Because you have not cited any specific rule that the department has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested information is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (construing predecessor

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<sup>2</sup>Although you do not seek to withhold basic information from incident report number 98-55954, we observe that much of the information subject to release as front page information is subject to common-law privacy pursuant to section 552.101 of the Government Code. The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). We advise the department to exercise caution in releasing confidential information. *See* Gov’t Code § 552.352 (the distribution of confidential information is a criminal offense).

statute). Accordingly, the department must not release incident report number 98-55888 to the requestor, since the report *in its entirety* must be withheld. Gov't Code § 552.101.

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 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/mjc

Ref.: ID# 118270

Enclosure: Submitted document

cc: Mr. Johnny Hughes  
2000 N. W. 18<sup>th</sup>  
Amarillo, Texas 79107  
(w/o enclosures)