



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 14, 1998

Captain Robert Taylor  
Amarillo Police Department  
City of Amarillo  
200 S.E. 3<sup>rd</sup> Avenue  
Amarillo, Texas 79101-1514

OR98-2426

Dear Captain Taylor:

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# 118810.

The Amarillo Police Department (the "department") received a request for the "complete investigation file regarding Incident No. 95-111843," concerning an automobile accident involving the requestor's client.<sup>1</sup> In response to the request, you submitted to this office for review a copy of the information which you assert is responsive.<sup>2</sup> You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception and arguments you have raised and reviewed the submitted information.

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 552.021 if:

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<sup>1</sup>We note that included among the submitted information is an accident report form that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code §§ 550.064 (officer's accident report), 550.065 (disclosure of accident report information). In the situation at hand, since the requestor has provided the department with the required information, you have indicated that "the State ST-3 accident report will be provided."

<sup>2</sup>You have also submitted to this office information, the Municipal Court computer print-out of disposition of case, that apparently was sent for informational purposes only. *But see* Gov't Code § 29.007(d)(4); *id.* § 29.007(f); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order). In this ruling, we do not address the public disclosure of that information.

(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

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(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.

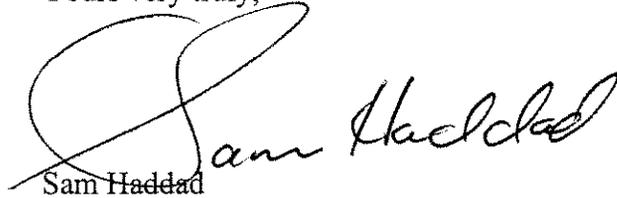
Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You inform this office that offense report number 95-111843 is excepted from disclosure, "because the case investigation has **concluded**; it has **not been adjudicated** and therefore has not resulted in a **conviction or deferred adjudication** against any person." Based on your arguments and submitted information, we find that you have shown the applicability of section 552.108(a)(2) to the requested information, since the investigation *did not* result in conviction or deferred adjudication.

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). Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *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). Therefore, we conclude that, except for basic front page information, offense report number 95-111843 may be withheld under section 552.108(a)(2) of the Government Code, though the department also has discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

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 on as a previous determination regarding any other records. If you have any questions regarding 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/ch

Ref.: ID# 118810

Enclosures: Submitted documents

cc: Ms. Kathleen Burian, CLA  
Gibson, Ochsner & Adkins, L.L.P.  
701 S. Taylor, Ste. 500  
Amarillo, Texas 79101-2400.  
(w/o enclosures)