



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 2, 1998

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 459002  
Garland, Texas 75046-9002

OR98-2919

Dear Mr. Dempsey:

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# 119889.

The City of Garland (the "city") received an open records request for the police report and "any and all pertinent information," concerning "an incident that occurred at 12208 Duchess Drive in Balch Springs Texas." In response to the request, you submit to this office for review a copy of the records at issue. You state that the city has released some of the requested information to the requestor.<sup>1</sup> However, the city wishes to withhold the remaining information, which has been highlighted, from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code reads as follows:

(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;

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<sup>1</sup>We note that the city has already released the front page offense report information from all of the requested reports. 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).

- (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

....

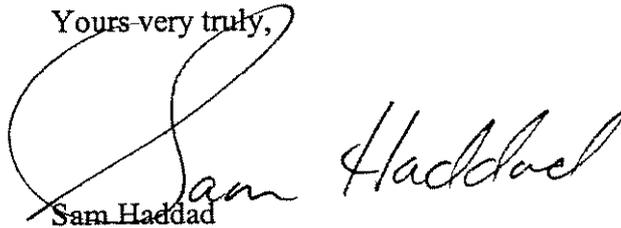
- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

*See Gov't Code § 552.108.* Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) 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. *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You explain that “the case against Mr. Shayna was filed with the Dallas County District Attorney’s Office . . . Mr. Shayna was ‘true billed’ on both counts.” Based on our review of the submitted information, we understand that the prosecution concerning the incident at issue is “pending in the 282<sup>nd</sup> Judicial District Court of Dallas County, Texas.” Therefore, we conclude that you have met your burden of establishing the applicability of section 552.108(a)(1) to the requested information. Although section 552.108(a)(1) authorizes you to withhold this 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.*

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 questions about this ruling, please contact our office.

Yours-very truly,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH\mjc

Ref: ID# 119889

Enclosures: Submitted documents

cc: James and Carol Shayna  
3261 Leix Road  
Caro, Michigan 48723  
(w/o enclosures)