



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 28, 1995

Mr. Robert F. Brown  
Attorney for City of Cockrell Hill  
Vial, Hamilton, Koch & Knox, L.L.P.  
1717 Main Street, Suite 4400  
Dallas, Texas 75201

OR95-1013

Dear Mr. Brown:

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# 35246.

The City of Cockrell Hill (the "city"), which you represent, received two open records requests for a copy of the city police department's incident report concerning "a disturbance or fight that took place on Thursday, July 27, 1995, near the intersection of Cockrell Hill Road and Jefferson Boulevard." You state that you have released to the requestors the "front page" of each of the offense reports coming within the ambit of the requests in accordance with *Houston Chronicle Publishing Company 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).<sup>1</sup> You seek to withhold the remaining portions of the offense reports pursuant to sections 552.101, 552.103, and 552.108 of the Government Code.

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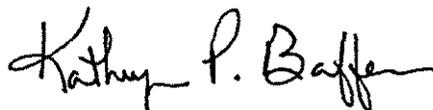
<sup>1</sup>Please note that *Houston Chronicle* does not require the "front page" of offense reports to be released, but rather that certain types of information, which happened to be contained on the first page of the Houston Police Department's offense report, must be released to the public. The first page of the city's offense report does not contain all of the types of information held to be public in *Houston Chronicle*. To the extent that "public" information is missing from the city's first page, that information must be released from other documents contained in the police department's file.

You explain that the Texas Rangers are currently investigating the facts surrounding the disturbance. Traditionally, when applying section 552.108, our office has distinguished between cases that are under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are under active investigation, this section excepts from required public disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976) (citing *Houston Chronicle, supra.*) The city therefore may withhold the contents of Exhibits 5<sup>2</sup> and 6 pursuant to section 552.108 during the pendency of the criminal investigation, except to the extent that the contents of those documents contain public "front page" offense report information as established under *Houston Chronicle*. *See* Open Records Decision No. 372 (1983) and authorities cited therein (where incident involving allegedly criminal conduct is still under active investigation or prosecution, law-enforcement exception may be invoked by any proper custodian of information that relates to that incident).

Exhibit 4 consists of a law-enforcement record concerning a juvenile suspect involved in the incident. We agree that this record is deemed confidential under section 51.14(d) of the Family Code and that the city must withhold this record in its entirety.<sup>3</sup>

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>Although you characterize the contents of Exhibit 5 as being information supplied by "informants," we believe that the individuals providing the statements contained in Exhibit 5 are more properly classified as "witnesses" to whom the informer's privilege would be inapplicable. However, because you also raised section 552.108 with regard to this information, we need not decide this issue at this time.

<sup>3</sup>Because we resolve your request under sections 552.101 and 552.108, we need not address your section 552.103 arguments at this time.

KPB/RWP/rho

Ref.: ID# 35246

Enclosures: Submitted documents

cc: Ms. Anna Macias  
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