Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 13, 1997

Ms. Joni M. Vollman
Assistant General Counsel
Office of the District Attorney
Harris County, Texas
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR97-2270

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109922.

The Harris County District Attorney received a request for copies of the files in two cases, 75-4217, Teson James Toops and 75-4218, Curtis Campbell. You assert that the requested information is excepted from required public disclosure based on Government Code sections 552.101, 552.103, 552.107 and 552.108.

The Seventy-fifth Legislature amended section 552.108 of the Government Code to read in part 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;
>
> (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;

(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.

See Act of June 1, 1997, H.B. 951, § 1, 75th Leg., R.S. (to be codified at Gov't Code § 552.108). You inform us that the Teson James Toups case was resolved by a plea agreement for deferred adjudication and the Curtis Campbell case is currently set for a jury trial. You state that the documents pertaining to the two cases are the same. As the Campbell case is pending, we believe release of the requested information would interfere with its prosecution and section 552.108(1)(a) is applicable. However, as subsection (c) makes section 552.108 inapplicable to basic information about an arrested person, an arrest, or a crime, we conclude that the district attorney may withhold the requested information, but with the exception of such basic information. *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); Open Records Decision No. 127 (1976); *see also* Open Records Decision No. 362 (1983) (section 552.103 predecessor inapplicable to front page offense report information).

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,

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 109922

Enclosures: Submitted documents

cc: Ms. Rebecca L. Reitz
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(w/o enclosures)