



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 12, 1998

Mr. Jason C. Marshall  
Nichols, Jackson, Dillard, Hager & Smith  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR98-0116

Dear Mr. Marshall:

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# 111512.

The City of Coppell (the "city") received a request for documents concerning the following:

- (1) (3934) "all documentation, not merely first page, of investigation and prosecution of 'weapons law violation' on 600 block of North Coppell Road on 15 January 1996. Two knives and one club were found;"
- (2) (3689-A) "all documentation of possession of 'drug paraphernalia' on 800 block of Castle Creek on 20 April 1997;"
- (3) (3932) "all documentation, not merely, first page, of investigation and prosecution of intoxicated person's causing 'head-on collision which cause serious bodily injury to another' on 600 block of North Highway 121 on 5 March 1997;"
- (4) (3933) "all documentation, not merely first page, of investigation and prosecution of possession of controlled substance on 5 April 1997 on 1600 block of south Belt Line;"
- (5) (3931) "all documentation, not merely first page, of investigation and prosecution of male's exposing his nudity on 18 January 1996 at Interstate 635 and Beltline;"

You indicate that you will disclose some of the requested information from those files.<sup>1</sup> You assert that the remainder of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.108, the “law enforcement exception,” provides:

(a) [i]nformation 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: (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.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [public disclosure] if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) the internal record or notation: (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 [s]ection 552.021 information that is basic information about an arrested person, an arrest, or a crime.

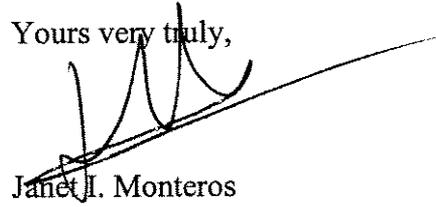
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<sup>1</sup>Information normally found on the front page of an offense report is generally considered public. See generally Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We stress that the city attorney must release the type of information deemed public by the *Houston Chronicle Publishing Co.* case regardless of its location within an investigation file. The content of the information determines whether it must be released in compliance with the *Houston Chronicle Publishing Co.* case, not its literal location on the first page of an offense report.

We have determined that, unless information relating to a criminal investigation or prosecution *concluded in a result* other than a conviction or deferred adjudication, it may not be withheld under section 552.108(a)(2) or (b)(2). You inform this office that some of the requested records relate to cases which have not resulted in final conviction or deferred adjudication and the remaining documents involve pending cases. Specifically, three sets of documents deal with matters pending in county court, one set of documents involves a continuing investigation, and one set of documents involves a "not guilty" adjudication. Consequently, you may withhold these documents pursuant to section 552.108(a).<sup>2</sup> However, you must release the type of information that is considered to be front page offense report information. *See generally* section 552.108(c) of the Government Code; *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).

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,



Janet J. Monteros  
Assistant Attorney General  
Open Records Division

JIM/alg

Ref.: ID# 111512

Enclosures: Submitted documents

cc: Mr. Doyle Calfey  
P.O. Box 191  
Coppell, Texas 75019-0191  
(w/o enclosures)

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<sup>2</sup>Although it is not apparent on their face that any of the documents have been filed with the court, we note that to the extent that any of the documents have been filed with the court, they have become a public record and may not now be withheld from required public disclosure. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992).