



April 15, 1999

Mr. Bruce P. Sadler  
Assistant District Attorney  
47<sup>th</sup> Judicial District of Texas  
Potter and Armstrong Counties  
501 Fillmore, Suite 1A  
Amarillo, Texas 79101-2449

OR99-1024

Dear Mr. Sadler:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123398.

The 47<sup>th</sup> Judicial District of Texas (the "DA") received a request for information regarding allegations of theft over \$20,000 and under \$100,000 brought against David Paul Driggs. You indicate that you have released some of the responsive information. You have supplied the responsive information for our review. You seek to withhold a portion of this information, contending that it is excepted from public disclosure by Government Code section 552.108, Government Code chapter 411, subchapter F and by other statutes and regulations. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code provides in pertinent 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 Section 552.021 if:

...

- (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.

You relate that the information submitted as “Exhibit D” was prepared by an attorney in anticipation of or in the course of preparing for criminal litigation. Based on your representations and our review of this information, we conclude that it may be withheld from public disclosure under section 552.108(a)(3).

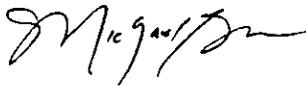
You relate that the information submitted as “Exhibit F” and “Exhibit G” deals with the detection, investigation, or prosecution of a crime which was presented to a grand jury and subsequently “no billed.” You have supplied a copy of the Notice of No Bill in this case. Based on your representations and supporting documents and our review of the submitted documents in these exhibits, we conclude that most of this information may be withheld from public disclosure by 552.108(a)(2). We note, however, that 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*, 531 S.W.2d 177; Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, including a detailed description of the offense and arrest, even if this information is not actually located on the front page of the offense report. In Open Records Decision No. 127 (1976), this office summarized the front page information of an offense report; with the exception of “front page” information, the records submitted as “Exhibit F” may be withheld under section 552.108(a)(2), as may the records in “Exhibit G.”

Section 552.101 of the Government Code requires withholding, *inter alia*, information made confidential by law. The records submitted as “Exhibit E” consists of crime history report information (“CHRI”) obtained from the Texas Department of Public Safety. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the “DPS”) maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov’t Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies).

Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. The information contained in “Exhibit E” must therefore be withheld.

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.

Sincerely,



Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 123398

encl. Submitted documents

cc: Mr. Joel A. Durrett  
Attorney at Law  
3500 Moss Lane  
Amarillo, Texas 79109  
(w/o enclosures)