



April 22, 1999

Mr. Dan T. Saluri
Assistant City Attorney
City Attorney's Office
P.O. Box 2000
Lubbock, Texas 79457

OR99-1070

Dear Mr. Saluri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124382.

The City of Lubbock (the "city") received a request for a DWI videotape and a videotape of the holding cell in which a certain person was placed. You contend that the requested information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue.

Section 552.108 excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . 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

(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 . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We have reviewed your section 552.108(b)(1) arguments and conclude that release of the security videotapes would interfere with law enforcement. Therefore, you may withhold the security videotapes under section 552.108(b)(1). *See* Open Records Decision No. 364 (1983). Moreover, you may withhold the DWI videotape under section 552.108(a)(2) as the investigation of the offense did not result in a conviction or deferred adjudication. Section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing 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). We note that you have the discretion to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

As the matter is resolved under section 552.108, we need not address your section 552.103 claim. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 124382

Encl: Submitted documents

cc: Mr. Damon Richards
Attorney at Law
5502 58th Street, Suite 400
Lubbock, Texas 79414
(w/o enclosures)