



October 21, 1999

Ms. Monica L. Strickland  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR99-2974

Dear Ms. Strickland:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129241.

The City of Midland received a request for police report number 9907130040 and notes that were collected in connection with that report. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow if it wishes to ask the attorney general for a decision determining whether requested information falls within an exception to disclosure. Among other requirements, the governmental body must submit to the attorney general a copy of the specific information requested or, if the information requested is voluminous, a representative sample of the information. Gov't Code § 552.301(e)(1)(D). If the governmental body fails to follow this procedure, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold information." Gov't Code § 552.302.

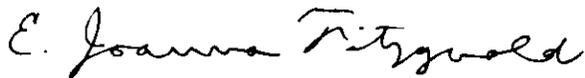
In your letter, you explain that a copy of the requested police report is attached as "Exhibit B," and copies of the requested notes are attached as "Exhibit C." However, there was no "Exhibit C" attached to your letter, nor were the requested notes contained within the other enclosures. Consequently, the requested notes are subject to required public disclosure and must be released to the requestor absent compelling reasons to withhold the notes from disclosure.

As for the requested police report, we agree that it falls under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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.” You explain that the criminal investigation to which the requested report relates concluded in a result other than conviction or deferred adjudication. Based upon this showing, we find that most of the requested report is excepted from disclosure pursuant to section 552.108(a)(2).

However, 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). Thus, you must release the type of information that is considered to be front page offense report information to the extent that it appears in the requested report. Thus, with the exception of the basic front page offense information, you may withhold the report from disclosure based on section 552.108(a)(2). Although section 552.108(a)(2) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov’t Code § 552.007.<sup>1</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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF\nc

Ref: ID# 129241

---

<sup>1</sup>Because section 552.108(a)(2) is dispositive of this matter, we do not address your arguments concerning section 552.101 or 552.130.

Encl: Submitted documents

cc: Argelia Yharte  
405 West Parker  
Midland, Texas 79701  
(w/o enclosures)