



March 10, 2000

Mr. John Schomburger
Assistant Criminal District Attorney
Collin County Courthouse
210 South McDonald, Suite 324
McKinney, Texas 75069

OR2000-0964

Dear Mr. Schomburger:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132838.

Collin County (the "county") received a request for the prosecution file of a named individual. You indicate that you have released copies of court records from this file to the requestor. You have supplied to this office for review other responsive information that you wish to withhold. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.111 and 552.130 of the Government Code.¹ You have notified the individual whose interests may be implicated by release of responsive information of the request. The implicated third party has not provided comment to this office. We have considered the exceptions you raise, and have reviewed the submitted information.

You relate that you have released copies of documents filed with the court from the requested prosecution file. From our review of the submitted file, we note that it contains other documents which are apparently copies of court records. Under section 552.022(a)(17) of the Government Code, all information that is also contained in a public court record is not excepted from public disclosure unless the information is expressly confidential under other law. As none of the court filed documents are made confidential by other law, any remaining records that are also contained in court records must be released.

Section 552.108(a)(3) excepts from required public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution

¹You also raise section 552.305 for "privacy interests of third party." This provision is not in itself an exception to disclosure.

of crime, if it is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation, or it reflects the mental impressions or legal reasoning of an attorney representing the state. In *Curry v. Walker*, 873 S.W.2d 379 (Tex. 1994), the Texas Supreme Court ruled, that where a district attorney's entire litigation file is sought, the work product privilege extends to the entire file because that material reflects the attorney's mental impressions. The current request is for the entire prosecution file on the subject individual. The request as worded, therefore, would reveal the prosecutor's entire file and thereby would reflect the mental impressions of the prosecutor. *See Curry*. We conclude that you may withhold information responsive to the instant request under section 552.108(a)(3)(B) in conjunction with the ruling in *Curry*. However, section 552.108 does not except from public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally 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) (summarizing types of information considered to be basic information, including detailed description of offense). Therefore, except for basic information, and information also contained in a public court record, you may withhold the subject information from disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 132838

Encl Submitted documents

cc: Mr. Chad Farrar
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