



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Mr. J. Greg Hudson
City Attorney
City of Leander
Bickerstaff, Heath & Smiley, L.L.P.
San Jacinto Center, Suite 1800
98 San Jacinto Boulevard
Austin, Texas 78701-4039

OR95-604

Dear Mr. Hudson:

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# 33289.

The City of Leander (the "city") received a request for the following information:

All reports concerning the arrest and follow up reports made by officers, judges, dispatchers on the arrest of Shelby Nyquist for disorderly conduct charge. Also supplementary reports by officers, judges and dispatcher. Also Officer Rick Coffman's report of arrest and his card for work.

You claim that the requested information is excepted from disclosure under section 552.108. We have considered the exception you claimed and have reviewed the documents at issue.¹

¹You state that the city would request a clarification from the requestor as to what he intended by requesting the officer's "card for work." No such document was submitted to this office. Therefore, we do not address whether that document is excepted from disclosure.

Section 552.108 excepts from disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime

(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.

When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally 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); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

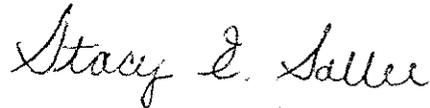
You state that the disorderly conduct charge against the requestor is still pending. Accordingly, consistent with the holding in *Houston Chronicle Publishing Co.*, the city may withhold certain information but must release the information that would normally appear on the first page of an offense report. Open Records Decision Nos. 371 (1983), 134 (1976), 127 (1976); *see Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We are enclosing a copy of Open Records Decision No. 127 (1976), which sets out what information must be disclosed and what information may be withheld.² However, if the case is closed, the city may not withhold this information, as the city has failed to show how disclosure of this information would unduly interfere with law enforcement and the records do not supply this explanation on their face. *See* Open Records Decision Nos. 616 (1993), 434 (1986).

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 under section 552.301 regarding any other records.

²We note that although the city did provide the requestor with a copy of the first page of the incident report, the narrative was deleted. A narrative is one of the items that is required to be disclosed. Open Records Decision No. 354 (1982).

If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Government Section

SES/KHG/rho

Ref.: ID# 33289

Enclosures: Open Records Decision No. 127 (1976)
Submitted documents

cc: Mr. Shelby Nyquist
19065 West Drive
Leander, Texas 78641
(w/o enclosures)