



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 21, 1996

Ms. Linda R. Frank
Chief Municipal Court Prosecutor
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR96-0218

Dear Ms. Frank:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36574.

The City of Plano (the "city") received a request for information concerning a pending speeding ticket case concerning the requestor. You state by subsequent correspondence with this office that the city will release some of the information. You contend, however, that the following information is excepted from required public disclosure under sections 552.103 and 552.108¹ of the Government Code:

1. the oath of office for officer "Wickell";
2. the oath of office for the officer in charge of searching the requestor's person;
3. the oath of office for the booking officer responsible for picture taking and fingerprinting;
4. a copy of the police report and arresting officer's statements;
5. the full names and correct spellings of the arresting officer ("Vannote"), the booking officer, the female officer in charge of searching the requestor's person, the supervisory officer ("Wickell"),

¹Although the city cites section 552.101 of the Government Code, we understand by your arguments that you are claiming the law enforcement exception of section 552.108.

the booking officer who did fingerprinting and pictures of the requestor;

6. a copy of all records including the computer records made concerning the requestor while at the police station and placed into the data base computer in the requestor's presence while in the jail area; and

7. the name of the officer who assisted officer "Vannote" at the location of the arrest at 2301 Coit Road, who arrived by separate police car.

Section 552.108 provides that:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(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 is excepted from [required public disclosure].

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987), 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *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) at 3-4 (listing factual information available to public).

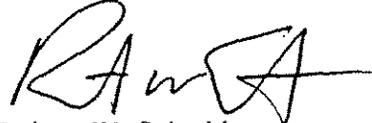
You state that the requested information relates to a pending criminal case. However, the type of information deemed public by the *Houston Chronicle Publishing Co.* case specifically includes, among other things, the names of arresting and investigating officers, items 5 and 7 above, and a detailed description of the offense, the officer's narrative. You may not withhold this type of information. We remind the city that it is the type of information that is determinative of whether it must be released under *Houston Chronicle Publishing Co.*, not the location of the information on the literal first page of the offense report. We have reviewed the information submitted for our consideration. The documents submitted consist of the type of information deemed public by the *Houston Chronicle Publishing Co.* case,² records filed with the municipal court, and oaths of office

²Section 552.103 generally may not be invoked to except front page offense report information. See Open Records Decision No. 597 (1991).

for certain public employees.³ Accordingly, you may not withhold the information you submitted for our review.

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.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/LBC/ch

Ref: ID# 36574

Enclosures: Submitted documents

cc: Ms. Nita Parker
c/o 6605 Garfield Drive
Plano, Texas 75023
(w/o enclosures)

³Information that is a matter of public record may not be withheld. *See generally* Open Records Decision No. 433 (1986) (district attorney's list of *impaneled* grand jurors is matter of public record, since impaneling takes place in open court; therefore, district attorney may not withhold names of *impaneled* grand jurors). Moreover, most court records are public under statutory law and the common law. *Cf.* Open Records Decision No. 204 (1978).