



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 25, 1997

Ms. Tatia R. Randolph
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-0967

Dear Ms. Randolph:

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# 105639.

The City of Dallas (the "city") received a request for an arrest report and any related report with reference to "service 1008624 E." You advise us that you provided some portions of the offense report to the requestor. However, the city is withholding the remaining documents based on section 552.108 of the Government Code. You enclose a copy of the documents you seek to withhold.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n 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." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (1996). We do note that along with the documents we find a probable cause affidavit submitted to this office for review. It appears that the affidavit was filed with the court, and consequently it has become a public record and may not now be withheld. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). If the probable cause affidavit was made to support a search warrant, the affidavit is public by statute if it has been executed. See Code Crim. Proc. art. 18.01(b). Therefore, the city may not withhold an executed search warrant from required public disclosure under section 552.108 of the Government Code. If the affidavit was not filed with the court, we will address it together with the other submitted information under section 552.108.

Additionally, we observe that notice of suspension appears in the file. A notice of suspension is issued at the beginning of an administrative proceeding commencing an action

against the driver's license of an individual pursuant to article 6701l-5, Section 2, V.T.C.S. or article 6687b-1, Section 7, V.T.C.S. The notice of suspension¹ is part of the administrative record in a driver's license suspension proceeding, a record proceeding, and as such, is a public document. See 37 T.A.C. 29.45; *Rogers v. State*, 641 S.W.2d 404. Additionally, it appears that the notice was sent to the requestor so it has already been released and it may not now be withheld under section 552.108 and it must be released.

Additionally, we note that information normally found on the front page of an offense report is generally considered public. *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). We observe that at times this information is not found exclusively on the front page of the offense report. Accordingly, section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with this 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 may 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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 105639

Enclosures: Submitted documents

cc: Mr. Rick Holloway
318 Old Nacogdoches Trail
Forney, Texas 75126
(w/o enclosures)

¹This notice of suspension serves to address due process considerations in administrative proceedings.