



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 14, 1998

Ms. Kristi A. Taylor
Assistant City Attorney
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR98-0121

Dear Ms. Taylor:

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# 111719.

The Lewisville Police Department (the "department"), which you represent, received a request for "the initiating complaint" regarding an incident concerning the requestor's client, which you represent to be a request for "all information in the investigation found in Offense Report numbers 97-5767, 97-5765, and 97-7508." In response to the request, you submitted to this office for review the information which you assert is responsive. You claim that, "with the exception of information ordinarily appearing on the first page of the offense report," the requested information is excepted from required public disclosure by section 552.108 of the Government Code.¹ We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that among the records you have submitted to our office for review you included an arrest warrant. If the submitted arrest warrant has been filed with a court, it is part of the public record and must be released. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (orig. proceeding) (if documents are part of public record they cannot be withheld under section 552.108). If, however, the arrest warrant has not been filed with a court, we will consider whether the affidavit and the remaining records are protected from disclosure by section 552.108 of the Government Code.

¹As you have noted, basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See Gov't Code § 552.108(c); 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). The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

Section 552.108 of the Government Code, in part, reads as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) 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; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. You state that section 552.108 is applicable to the submitted information. From your brief, we understand that the submitted records relate to "an ongoing criminal investigation." As the requested records relate to a pending criminal investigation or prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, except as noted above, the remaining information may be withheld pursuant to section 552.108(a)(1).

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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref: ID# 111719

Enclosures: Submitted documents

cc: Mr. S. Rafe Foreman
Morris & Morris, PLLC
1001 Cross Timbers, Suite 2180
Flower Mound, Texas 75028
(w/o enclosures)