



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1998

Ms. Barbara G. Heptig
Assistant City Attorney
City of Arlington
P.O. Box 231
Arlington, Texas 76004-0231

OR98-0470

Dear Ms. Heptig:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 112997.

The City of Arlington (the "city") received a request for an arrest warrant with supporting affidavit and the police report about the offense. You state that the city has already provided the requestor with the arrest warrant and affidavit, and "the media copy of the arrest report." You submitted to this office as responsive to the request information labeled as Exhibits B and C. You assert that Exhibit B is excepted from disclosure pursuant to section 552.108 of the Government Code, and that Exhibit C is excepted from disclosure under both federal and state law, in conjunction with section 552.101 of the Government Code. We will address your arguments concerning disclosure of the submitted information.

You assert that section 552.108 excepts from disclosure the documents submitted as Exhibit B. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Generally, a governmental body can demonstrate that release of information about a case would interfere with the prosecution of crime by showing that there is a pending criminal prosecution in the case. *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) (court delineates law enforcement interests that are present in active cases); see Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).

Section 552.108(c) provides that “ basic information about an arrested person, an arrest, or a crime” is not excepted from disclosure. Thus, front page offense and arrest report information must generally be disclosed, since this type of information provides basic information about allegations and arrest. *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) (front page offense report information is generally considered public). Although you inform this office that front page arrest report information was provided, the city also must provide to the requestor basic, front page offense information, including a detailed description of the offense.¹ We have enclosed a summary showing the types of information that are public and must be disclosed.

We agree that the remaining information in Exhibit B may be withheld from disclosure under section 552.108(a)(1), since you assert that there is a pending criminal prosecution in this case. We also note that the city has discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

You claim that the information in Exhibit C is criminal history record information (“CHRI”) that is protected from disclosure by federal and state law, as provided by section 552.101 of the Government Code. Section 552.101 excepts from disclosure “information deemed confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes.

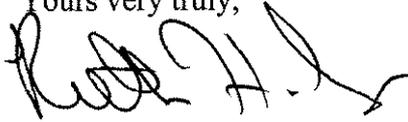
Federal regulations prohibit the release of CHRI maintained in state and local CHRI systems to the general public. *See* 28 C.F.R. § 20.21(c)(1) (“Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.”), (2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.”). Section 411.083 of the Government Code provides that any CHRI maintained by the Department of Public Safety (“DPS”) is confidential. Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *Id.* § 411.084; *see also id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). We agree that the information in Exhibit C is protected from disclosure and may not be disclosed.

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

¹Although this information is generally found on the front page of an offense or arrest report, its location is not determinative and it must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. *See* Open Records Decision No. 127 (1976) at 5.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 112997

Enclosures: Submitted documents
Summary of Open Records Decision No. 127

cc: Ms. R. Maureen Tolbert
2630 West Freeway
Park Gardens Suite 208
Fort Worth, Texas 76102
(w/summary of Open Records Decision No. 127)