



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 20, 1998

Ms. Dianne Eagleton
Supervisor
Records Division
North Richland Hills Police Department
P.O. Box 820609
North Richland Hills, Texas 76182

OR98-0984

Dear Ms. Eagleton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114724.

The City of Richland Hills received a request for the audio, video and written materials concerning a specific traffic citation. You contend that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the sample documents that you have submitted.¹

As a threshold issue, we note that the Open Records Act does not apply to records of the judiciary. Gov't Code § 552.003(B). The requested information includes a municipal court citation. In this instance, we are unable to determine whether the submitted information is a record held by the judiciary or whether it is a record filed with the municipal court and also maintained by another governmental body. You do not indicate whether you seek a decision on behalf of the municipal court or city. If the requested records are genuinely records maintained solely by the municipal court, you need not release them under

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the Open Records Act. Attorney General Opinion DM-166 (1992). As records of the judiciary, however, the information may be public by other sources of law. Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Additionally, the records may be subject to disclosure under statutory law governing municipal courts. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order).

If, on the other hand, the record is maintained by a governmental body other than the municipal court, such as another city department or law enforcement agency, and were merely filed with the court, it is public information under the Open Records Act and is subject to disclosure. You claim that the requested information is protected by section 552.108 of the Government Code. That section provides:

(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 Section 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;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(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 the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

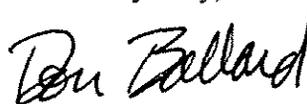
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested information concerns a traffic ticket that has been set for trial. You have provided this office with an internal tracking system printout that reflects your contention. We presume that you are arguing that release of the requested information would interfere with law enforcement because prosecution is pending. We conclude that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. Thus, you may withhold the requested information under section 552.108(a)(1). See Open Records Decision No. 216 (1978).

We note, however, 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). Thus, you must release the type of information contained in the submitted information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report or citation. Gov't Code § 552.108(c); see Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

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,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive style with a large, prominent "D" and "B".

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 114724

Enclosures: Submitted documents

cc: Mr. Kevin Roy Smith
9088 Stillwater Trail
Fort Worth, Texas 76118
(w/o enclosures)