



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 21, 1998

Ms. Diane Eagleton
Supervisor
North Richland Hills Police Department
Records Division
P.O. Box 820609
North Richland Hills, Texas 76182-0609

OR98-1290

Dear Ms. Eagleton:

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# 115122.

The City of North Richland Hills (the "city") received a request for

Any and all reports regarding the February 13th arrest of Phillip Mark Decker as well as any and all memos, records, or reports that shed any light on Phillip Mark Decker.

Section 552.108 provides in part:

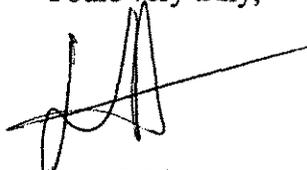
(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information 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.

You have represented to this office that "although the case has been closed through your agency, the case is under active investigation by a federal authority (ATF) and is treated as an active case." You further state that because the information relates to an ongoing federal

criminal investigation, the information in the possession of the state prosecutor or law enforcement agency may be withheld. We conclude that you have shown that release of the marked requested information would interfere with the detection, investigation, or prosecution of crime, and thus, it is excepted from disclosure under section 552.108(a)(1). However, you must release the type of information that is considered to be front page offense report information. *See generally* 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). Although section 552.108 authorizes you to withhold the requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vanet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref: ID# 115122

Enclosures: Submitted marked documents

cc: Ms. Christi O'Connor
KTVT News
5223 Bridge Street
Fort Worth, Texas 76013
w/o enclosures