OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 14, 2003

Ms. Ashley D. Fourt
Assistant County Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2003-1712

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178080.

The Tarrant County Sheriff's Department (the "Department") received a request for offense report numbers 200265232, 200264942, and 200266391. You inform us the Department has released some of the requested information to the requestor; however, you assert the submitted information identified as Exhibit C is excepted from disclosure under section 552.108 of the Government Code. We have reviewed the information you submitted and we have considered the exception you claim.

Initially, we note Exhibit C contains a probable cause warrant of arrest and detention. If this document has been filed with a court, then it is considered public information that the Department must release to the requestor. *See* Gov't Code § 552.022(a)(17) (providing for required public disclosure of information that also is a matter of public court record); *see also Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992).

Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us the submitted information that pertains to offense report number 200265232 concerns a pending

case filed in Tarrant County Criminal Court. Therefore, we believe the release of this information "would interfere with the detection, investigation, or prosecution of crime." *Id.*

With respect to offense report numbers 200266391 and 200264942, you claim section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us that the submitted documents pertaining to the offense reports at issue relate to criminal investigations that did not result in convictions or deferred adjudication. Therefore, we agree section 552.108(a)(2) applies to offense report numbers 200266391 and 200264942.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company 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), which includes a detailed description of the offense. Thus, with the exception of the basic front page offense and arrest information, the Department may withhold the submitted information in Exhibit C that relates to offense report numbers 200256232, 200266391, and 200264942 from disclosure based on section 552.108 of the Government Code. The Department has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public

records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 178080

Enc: Submitted documents

c: Mr. Steve Jenkins
6299 Bennet Lawson Road
Mansfield, Texas 86063
(w/o enclosures)