



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1998

Ms. Leah Curtis Morris
Law Offices of Harold F. Curtis, Jr.
P.O. Box 1256
Greenville, Texas 75403-1256

OR98-0926

Dear Ms. Morris:

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# 114196.

The City of Greenville (the "city") received a request for "a list of residential properties which have been broken into in the last two weeks." You have submitted a copy of the records you consider responsive to this office for review and assert that section 552.108 of the Government Code exempts the record from disclosure. We have considered the exception you claim and have reviewed the records at issue.¹

Section 552.108 of the Government Code 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 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

¹We note that the officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification. See Gov't Code section 552.222. Additionally, we observe that the officer for public information shall treat all requests for information uniformly without regard to the position or occupation of the requestor. See Gov't code section 552.223.

(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.

(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; or

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

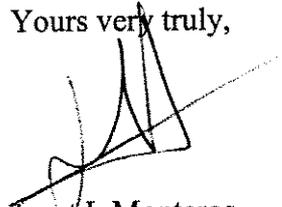
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

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). In this instance, you state the requested information pertains to a pending criminal investigation or prosecution so as to demonstrate that its release would interfere with the detection, investigation, or prosecution of crime. However, the requested information concerns front page information. You must release the type of information that is considered to be front page offense report information. *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). You must therefore release the requested front page information.

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,



Jane I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 114196

Enclosures: Submitted documents

cc: Mr. Earl Hammer
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(w/o enclosures)