



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 25, 1998

Ms. Sharon R. Sela
Assistant City Attorney
City of Dallas
Office of the City Attorney
Criminal Law and Police Division
City Hall
Dallas, Texas 75201

OR98-2039

Dear Ms. Sela:

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# 117606.

The Dallas Police Department (the "department") received a request for a copy of the entire Internal Affairs Division file pertaining to the requestor's arrest which occurred on October 30, 1997. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code 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.

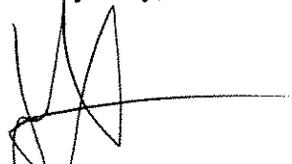
Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You explain that the requested information concerns an investigation that is open and pending and submit a letter from Mr. Donald G. Davis, Dallas County Assistant District Attorney, the prosecutor on the case, service number 0890138-F. Because you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that you may withhold most of the information under

section 552.108(a)(1).¹ See Open Records Decision No. 216 (1978). 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 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. Gov't Code § 552.108(c); see Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). This includes identification and description of the complainant. Open Records Decision No. 127 (1976)

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,



Janet J. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 117606

Enclosures: Submitted documents

cc: Mr. Mike Hulse
8569 Britannia
Dallas, Texas 75243
(w/o enclosures)

¹You inform us that the case was set for trial on August 12, 1998. As you have not updated this office as to the status of the case, our conclusion is based on the assumption that the prosecution of the case is pending.