



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1998

Ms. Monica Z. Notzon
First Assistant District Attorney
49th Judicial District
P.O. Box 1343
Laredo, Texas 78042-1343

OR98-2876

Dear Ms. Notzon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 119854.

The District Attorney for the 49th Judicial District received a request for the indictment, judgment and sentence, docket sheets, and police reports concerning the requestor's conviction. You indicate that your office does not possess the indictment, judgment, sentence, or docket sheets. You have informed the requestor that he may obtain these documents from the District Clerk. You claim that the requested police reports are excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code 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 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.

* * *

(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 point out that the requestor's conviction is being challenged through habeas corpus proceedings. You state that the reports are covered by 552.108 "because it is work product of the state", and release "would interfere with the prosecution of the case; and it reflects the states [sic] evidence which is necessary to defend the conviction in the appellate stages." We do not believe, however, that you have shown how or why release of the requested information in this particular situation, where the investigation and criminal prosecution have concluded in a conviction, would interfere with law enforcement or prosecution. Further, you do not assert that the reports at issue were prepared by an attorney representing the state or that they reflect the mental impressions or legal reasoning of an attorney representing the state. Gov't Code § 552.108(a)(3). Since you have not shown the applicability of section 552.108, the requested information may not be withheld on that basis.

Additionally, you suggest that the names and addresses of victims and witnesses may be confidential. You point to no authority for your assertion nor are we aware of any in this instance. *See* Gov't Code § 552.101; *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision Nos. 169 at 6 (1977) (special circumstances), 123 (1976). Consequently, the requested information must be released.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID # 119854

Enclosures: Submitted documents

cc: Mr. Martin Rios
P.O. Box 9200
New Boston, Texas 75570
(w/o enclosures)