



April 19, 1999

Mr. Frank M. Crull
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Boulevard
Austin, Texas 78773-0001

OR99-1048

Dear Mr. Crull:

You ask this office to reconsider our ruling in Open Records Letter No. 99-0141 (1999). Your request for reconsideration was assigned ID# 123454.

The Texas Department of Public Safety (the “department”) received a request for all records relating to the arrest of Alexander Jones in Round Rock, Texas on September 12, 1998. In your original request for a ruling, you claimed that the requested information was excepted from disclosure under section 552.108 of the Government Code. In Open Records Letter No. 99-0141 (1999), we concluded that the requested information was presumed public because you had failed to request a decision from this office within ten business days of receiving the request for information. *See* Gov’t Code §§ 552.301, .302. The ruling also held that the department must withhold certain information from disclosure pursuant to section 552.130 of the Government Code, because the application of section 552.130 overcomes the presumption that information is public. You now contend that the department submitted its request for a ruling to this office within ten business days of receiving the request for information. Because you contend that your request for a decision was timely submitted, you also ask that we consider the merits of your original argument for withholding the requested information under section 552.108.

In your request for reconsideration, you state that the department received the request for information on October 6, 1998, and you call our attention to the “fax transmission stamp” at the top of the request which indicates a transmission date of October 6, 1998. Please note

that in your original request for a decision, you stated, "The Department of Public Safety received the enclosed public information request from Mr. Graves on October 5, 1998." In your request for reconsideration, you also state that the department's original request for a decision "was hand delivered to the Office of the Attorney General on December 20, 1998, the 10th business day from the date the Department received Mr. Ford's request." This statement is not accurate. Our records indicate that the department did not hand deliver your original request for a ruling, but rather that you faxed it to this office. Our records further indicate that you transmitted your request for a decision to this office on October 20, 1998, not on December 20, 1998. Finally, please note that the requestor in this instance is Mr. Graves, not Mr. Ford.

Despite the conflicting statements you have made to this office, it appears that the department received a request for information from Mr. Graves on October 6, 1998, and that you timely requested a decision from this office within ten business days on October 20, 1998. Thus, we will consider the merits of your original argument against disclosure.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." In your original request for a ruling, you stated that "[t]here is currently an active investigation regarding Mr. Jones." Assuming that this investigation is still "active," we conclude that the release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See 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) (court delineates law enforcement interests that are present in active cases).

We note, however, that information normally found on the front page of an offense report is generally considered public. *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). 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. Although section 552.108(a)(1) authorizes you to withhold the remaining 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. Open Records Letter No. 99-0141 (1999) is overruled to the extent it conflicts with this ruling.

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 any questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 123454

Enclosures: Submitted documents

cc: Mr. Pat Graves
2103 Point Bluff Drive
Austin, Texas 78746
(w/o enclosures)