



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 23, 1995

Mr. James Showen
Senior Assistant City Attorney
City of Tyler
P.O. Box 2039
Tyler, Texas 75710

OR95-1118

Dear Mr. Showen:

You have asked this office to determine if information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31855.

The City of Tyler (the "city") received a request for a police offense report and a probable cause affidavit for an arrest warrant. You contend that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code.

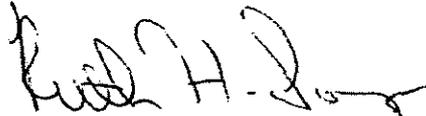
When applying section 552.108, this office distinguishes between cases that are still under active investigation or prosecution and those that are closed. If a case is still under active investigation or prosecution, section 552.108 generally excepts from disclosure all information except that found on the first page of an offense report. Open Records Decision No. 611 (1992) at 3; *see* Open Records Decision No. 127 (1976). You indicate that there is a pending burglary prosecution in this case. Thus, all but the type of information generally found on the first page of the offense report may be withheld until the case is closed through a conviction, acquittal, or by administrative decision.¹ Open Records Decision No. 372 (1983).

¹However, we note that under article 15.17(a) of the Code of Criminal Procedure, the individual who is arrested must be informed by a magistrate "of the accusation against him and of any affidavit filed therewith."

However, some of the information you submitted to this office is first page offense report information. Although first page offense report information is generally found on the first page of an offense report, its location is not determinative. It must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. See Open Records Decision No. 127 (1976) at 5. We have enclosed a list of the types of information that are generally public and must be disclosed.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 31855

Enclosures: Submitted documents
Summary of ORD 127

cc: Mr. Hunter Brush
Attorney at Law
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(w/o enclosures)