



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 17, 1998

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law and Police Division  
Office of the City Attorney  
2014 Main, Room 501  
Dallas, Texas 75201

OR98-0743

Dear Ms. Middlebrooks:

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# 113809.

The Dallas Fire Department received a request for a copy of a tape recording of a 911 call made by the requestor on November 21, 1997. You assert that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.108, the "law enforcement exception," provides in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 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; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

The Arson Investigation Division of a city fire department is a "law-enforcement agency" within the meaning of section 552.108. *See* Open Records Decision Nos. 127 (1976) at 8-9, 371 (1983) at 1. You state that the DFD Arson and Fire Investigations Unit has filed criminal charges against the requestor and another individual as a result of the requested tape, and that those cases are currently

pending. As the information requested relates to a pending criminal prosecution, we therefore find that release of this information would interfere with the detection, investigation, or prosecution of crime and thus, it is excepted from disclosure under section 552.108(a)(1).

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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref.: ID# 113809

Enclosures: Submitted documents

cc: Mr. Glenn Jaspers  
4925 N. Hall St.  
Dallas, Texas 75219  
(w/o enclosures)