Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 8, 1998

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington
P.O. Box 231
Arlington, Texas 76004-0231

OR98-1181

Dear Mr. Goodall:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114645.

The City of Arlington (the "city") received a request for the following information concerning an individual's arrest on a charge of Driving While Intoxicated: (1) an arrest report, (2) a videotape made at the jail, (3) information concerning other persons held for questioning at the time of the arrest, and (4) any other reports pertaining to the preceding records. You assert that the only responsive document that the city has possession of is the arrest report, which was submitted to this office for review. However, you argue that both the arrest report and the videotape are excepted from disclosure pursuant to section 552.108 of the Government Code.

We note that your correspondence to this office states that the requested videotape "is now in the possession of the Tarrant County District Attorney's Office, and not available from our department." However, you also state that "the videotape and the arrest report (Exhibit B) are records of a law enforcement agency, to wit: the Arlington Police Department." If the videotape is a record of the Arlington Police Department, the request for the videotape is appropriately addressed to the city. *See* Gov't Code §§ 552.002(a) (public information includes information collected, assembled or maintained "for a governmental body and the governmental body owns the information or has a right of access to it"), 552.201(identity of officer for public information). Based upon your assertion that the videotape is a city record protected from disclosure under section 552.108, we notified you that, pursuant to section 552.303 of the Government Code, the city must submit a copy of the videotape to this office for review. Because you decline to submit the videotape, we

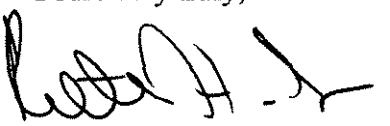
conclude that the city has waived its section 552.108 interest regarding the videotape.[1] Gov't Code §§ 552.302, .303. We will address your section 552.108 argument regarding the arrest report submitted to this office.

You state that a "media copy" of the arrest report has been released. Section 552.108(c) provides that "basic information about an arrested person, an arrest, or crime" is not excepted from disclosure. Basic information is the type of information that is generally included on the front page of an offense or arrest report, including a description of the arrest. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976). We have enclosed a list that shows the type of information that is generally public and must be disclosed.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You assert that there is a pending criminal prosecution in this case. Since there is a pending prosecution, we agree that you have shown that release of the remaining portions of the arrest report would interfere with the investigation or prosecution of crime. *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); *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). Thus, the arrest report, except for the front page information, may be withheld from disclosure.

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

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[1]We do not address any section 552.108 interest the district attorney's office may have in the videotape.

Ref: ID# 114645

Enclosure: Submitted documents
Summary list of Open Records Decision No. 127

cc: Mr. Bruce P. Stewart
7 Mountain Lane
Grand Prairie, Texas 75052
(w/o enclosure)