



November 2, 1999

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
Municipal Building
Dallas, Texas 75201

OR99-3097

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128657.

The Dallas Police Department (the “department”) received a request for information related to case number 0488175-H. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code.¹ We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108, the “law enforcement exception,” provides in relevant part as follows:

(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 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (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[.]

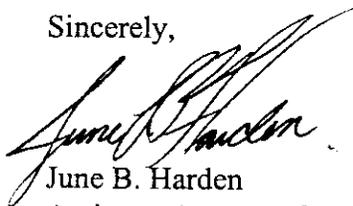
¹The department states, and we agree, that it has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov’t Code § 552.301. The department’s delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. In this instance, you have established a compelling reason for non-disclosure under section 552.108. Therefore, we will address the merits of your section 552.108 arguments.

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 indicate that the requested information concerns a pending prosecution. You have also provided this office with a letter from an assistant district attorney who asks that the information not be released. Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). We find that you have shown the applicability of section 552.108. *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); Open Records Decision No. 216 (1978); *see also* Open Records Decision No. 586 (1991) (need of another governmental body to withhold information may provide compelling reason for nondisclosure when governmental body fails to timely request a decision under section 552.301). Thus, we conclude that the requested information may be withheld under section 552.108.

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle*, 531 S.W.2d at 187. 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. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 128657

Encl. Submitted documents

cc: Ms. Tammy Cooper
811 N. Central Expressway, Suite 518
Richardson, Texas 75080
(w/o enclosures)