



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1994

Mr. Charles Karakashian, Jr.  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR94-162

Dear Mr. Karakashian:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.<sup>1</sup> We assigned your request ID# 23799.

The Texas Department of Public Safety (the "department") has received a request for information relating to an excessive use of force investigation stemming from an arrest for alleged DWI. Specifically, the requestor seeks a copy of the department's investigation. You seek to withhold the requested information from required public disclosure under sections 552.103, 552.108, and 552.111 of the act.

Section 552.108 excepts from required public disclosure:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

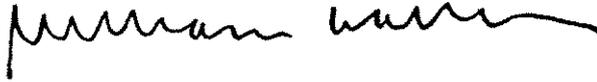
This office has determined on numerous occasions that where a law enforcement agency is actively investigating a matter, section 552.108 excepts from disclosure all information relating to the investigation except that generally found on the first page of the offense report. See generally Open Records Decision No. 127 (1976) (citing *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.]

<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976)). You advise us that the requested information relates to a pending prosecution for DWI and that the assistant district attorney prosecuting the matter objects to the information's release. Accordingly, we conclude that the department may withhold the requested information from required public disclosure under section 552.108 of the act. As we resolve this matter under section 552.108, we need not address the applicability of sections 552.103 and 552.111.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



William Walker  
Assistant Attorney General  
Open Government Section

WMW/GCK/rho

Ref.: ID# 23799  
ID# 23854  
ID# 23887

Enclosures: Submitted documents

cc: Mr. Carlos Laguna  
Attorney at Law  
Law Office of Flores-Amaya  
2321 East First Street  
Austin, Texas 78702  
(w/o enclosures)