



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 18, 1994

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR94-381

Dear Ms. Briggs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 25246.

The City of Houston (the "city") has received a request for information relating to a certain shooting incident in which a police officer killed a fleeing suspect. You advise us that the city will provide the requestor with first-page offense report information in accordance with *Houston Chronicle Publishing 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). You object, however, to release of the remaining information, which you have submitted to us for review. You claim that sections 552.103(a) and 552.108 of the Government Code except this information from required public disclosure.

Section 552.108 excepts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime

(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

When a case is under active investigation or prosecution, 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.*). You advise us that all of the requested information, which you have submitted for review, relates to a pending criminal

investigation. We have reviewed the submitted materials, and we conclude that the city may withhold them from required public disclosure under section 552.108 at least until the case is closed. As we resolve this matter under section 552.108 of the Government Code, we need not address the applicability of section 552.103(a) at this time.¹

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,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/sbm

Enclosed: Submitted documents

Ref.: ID# 25246

cc: Mr. Teri Cantu
Investigator
INS Investigations Bureau, Inc.
530 Wells Fargo Drive, Suite 101A
Houston, Texas 77090-4026
(w/o enclosures)

¹We remind you that section 552.108 is a discretionary exception to required public disclosure. See Gov't Code § 552.007. Therefore, the city may choose to release to the public some or all of the requested information.