



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1995

Mr. Robert P. Rose
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR95-1000

Dear Mr. Rose:

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# 34802.

The City of Austin (the "city") received a request for "any reports, notes, surveillance records or other documents identifying any person suspected of engaging in or facilitating drug sales at 745 Bastrop Highway, at the business known as 'The Red Rose.'" You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You have submitted a representative sample of the documents of which you claim an exception to disclosure.¹ We have considered the exception you claimed and have reviewed the sample documents.

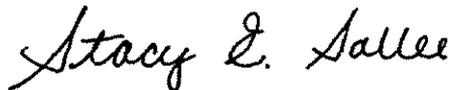
Section 552.108(a) excepts from disclosure records of law enforcement agencies or prosecutors that deal with the detection, investigation, or prosecution of crime. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

disclosure all information except that generally found on the first page of the offense report. *See generally 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); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986). You state that the requested documents are the subject of an on-going criminal investigation. Therefore, with the exception of information that would generally appear on the first page of an offense report, the city may withhold the requested information.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 34802

Enclosures: Submitted documents

cc: Mr. John C. Kuhn
President
Central Entertainment, L.C.
603 West Eighth Street
Austin, Texas 78701
(w/o enclosures)