



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 21, 1995

Ms. Sally Henley
Division Chief
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR95-1271

Dear Ms. Henley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 36036.

The City of Austin has received an open records request for all information relating to the arrest of a particular individual in December of 1994. You have released some of the requested information. However, you contend that sections 552.108 and 552.103 of the Government Code except from disclosure the remainder of the requested information because the individual arrested is awaiting trial.

We conclude that section 552.108 of the Government Code permits you to withhold most of the requested information. In cases that are currently under active investigation, section 552.108 usually excepts from 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). You have demonstrated that the case at issue here is currently under active investigation. Therefore, you may withhold all the requested information except that generally found on the first page of the offense report.

You may not, however, withhold the information generally found on the first page of the offense report under either section 552.108 or section 552.103. Under section 552.108, a law enforcement agency may withhold information generally found on the first page of the offense report only if it proves that releasing the information would unduly interfere with law enforcement. Open Records Decision Nos. 628 (1994) at 2,

366 (1983) at 3. Under section 552.103, the information generally found on the front page of the offense report must be released once the defendant had been indicted or otherwise informed of the nature of the charges against him. Open Records Decision No. 597 (1991) at 3. You have not demonstrated that releasing this information in this case would unduly interfere with law enforcement; you allege merely that the details of the arrest could be relevant at trial. Furthermore, the defendant in this case has to have been informed of the charges against him. Therefore, you must release all the information identified as first-page offense report information in *Houston Chronicle*, regardless of where it is found.

The information generally found on the first-page of the offense report includes not only the information you have released and the details of the arrest, but also a detailed description of the offense and the names of the arresting officers. *Houston Chronicle Publishing Co.*, 531 S.W.2d at 185, 187; Open Records Decision No. 127 (1976) at 3-4. The information you have released does not include any of these items. We have enclosed an excerpt from Open Records Decision No. 127 (1976), which lists the types of information that you must disclose.

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,



Margaret A. Roll
Assistant Attorney General
Open Records Division

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Ref.: ID# 36036

Enclosures: Submitted documents
Excerpt from Open Records Decision No. 127 (1976)

cc: Mr. Max Betancourt
New Director
KKPS-FM/Que Pasa 99.5
901 East Pike
Weslaco, Texas 78598
(w/o enclosures)