



March 4, 1999

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-0602

Dear Ms. Grace:

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# 122603.

The City of Houston (the "city") received a request dated August 12, 1998 for information relating to Incident No. 079203198N and any other information relating to the requestor. You state that you made available to the requestor "the incident report up to and including the August 3, 1998 supplement."

The city received a second request from the same requestor on November 23, 1998. The second request is for: 1) a claim form, 2) all information regarding Incident No. 079203198N, 3) all correspondence with the bank regarding the check listed on the offense report, and 4) resolution of the offense or an explanation as to why the matter is not resolved. You state that information responsive to item 3 does not exist. You seek to withhold portions of the information responsive to item 2 from disclosure pursuant to section 552.108 of the Government Code.

Before addressing your section 552.108 claim, we make several observations regarding these two requests for information. The Open Records Act applies only to information already in existence when a request for information is made. Thus, the Open Records Act does not require a governmental body to inform a requestor if responsive information comes into existence after the request has been made. Open Records Decision No. 452 (1986). In response to the first request, the city apparently provided the requestor with all information relating to Incident No. 079203198N that was in existence at the time it received the first request for information. You represent that the only information that the city is now seeking to withhold from disclosure under section 552.108 was created after the city received the first request.

Item 4 of the second request for information seeks a resolution of an offense or an explanation as to why the matter has not been resolved. We note that the Open Records Act does not require a governmental body to prepare answers to questions or resolve legal issues. Open Records Decision Nos. 555 (1990), 534 (1989). Although you do not mention item 1 of the request in your letter to this office, we assume that you have provided the requestor with a claim form if such a form exists.

Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” You contend that two supplemental reports regarding to Incident No. 079203198N are excepted from disclosure under section 552.108(a)(1) because they relate to a case that “is open and is being actively investigated at this time.” Based upon this representation, we conclude that the release of the two supplemental reports you have highlighted would interfere with the detection, investigation, or prosecution of crime. 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). Accordingly, the city may withhold this information from disclosure pursuant to section 552.108(a)(1).

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

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 122603

Enclosures: Submitted documents

cc: Ms. Mattye F. Faulkner
P.O. Box 6924
San Pedro, California 90734
(w/o enclosures)