



March 29, 1999

Mr. James Schnurr
Assistant City Attorney
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR99-0867

Dear Mr. Schnurr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123357.

The Dallas Police Department (the "department") received a request for the "complaint history on three Dallas Police Department Officers." You have released some of the requested information, but you contend that portions of the requested information is protected and should be withheld from public disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You argue that the information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 reads in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

. . .

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You advise us that the case to which the requested report relates is currently pending criminal investigation. The law enforcement exception applies to information about ongoing criminal investigations. *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). Based on your representations, we conclude that you may withhold the requested information pursuant to section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). This office considers such basic information to encompass the front page offense report information the court held to be public in *Houston Chronicle*. You must release these types of information in accordance with *Houston Chronicle*.

Section 552.119 of the Government Code prohibits the release of a photograph that depicts a peace officer as defined by article 2.12 of the Code of Criminal Procedure except in certain circumstances. You have submitted copies of photographs of police officers. Unless the peace officers have given their consent to release of the photograph or one of the exceptions set forth in section 552.119 applies, the department must withhold the photographs from disclosure. Since we have resolved this request pursuant to sections 552.108 and 552.119 of the Government Code, we need not address your other claims.

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 questions about this ruling, please contact our office.

Sincerely,


David Van Brunt Price
Assistant Attorney General
Open Records Division

DVP\nc

Ref: ID# 123357

Enclosures: Submitted documents

cc: Mr. Michael Clogan
101 N. Brookside Drive, # 1104
Dallas, Texas 75214-4593
(w/o enclosures)