



April 22, 1999

Mr. James Savage
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR99-1073

Dear Mr. Savage:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125330.

Section 552.301(a) of the Government Code provides in part that:

A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the [act's] exceptions . . . must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the request.

In this case, this office did not receive the request for a decision within the 10 business day period mandated by section 552.301(a). Because the request for a decision was not timely received, the requested information is presumed to be public information. Gov't Code § 552.302; see *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381; see Open Records Decision No. 630 (1994). The need of a governmental body, other than the body that is seeking an open records decision, to withhold information under section 552.108 of the Government Code may be a

compelling reason for non-disclosure. Open Records Decision 586 (1991). Section 552.108 excepts from disclosure:

(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[.]

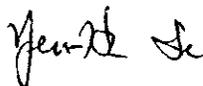
Gov't Code § 552.108(a). In this instance, the Harris County District Attorney's Office has advised that disclosure of the requested information would interfere with the prosecution of a pending criminal case. Therefore, you may withhold most of the requested information in Exhibit B pursuant to section 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). Thus, you must release the types of basic information listed in *Houston Chronicle Publishing Company 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). We note that you have the discretion to release all or part of the remaining information in Exhibit B that is not otherwise confidential by law. Gov't Code § 552.007.

You also claim that Exhibits A and C are excepted from public disclosure by section 552.108. We conclude that you have not shown how release of Exhibits A and C would interfere with prosecution of the crime. Accordingly, you must release Exhibits A and C.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 125330

Encl: Submitted documents

cc: Mr. James Sullivan
Sullivan & Botts
2411 Smith Street
Houston, Texas 77006
(w/o enclosures)