



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 24, 1993

Mr. James Showen
Senior Assistant City Attorney
City of Tyler
P. O. Box 2039
Tyler, Texas 75710

OR93-351

Dear Mr. Showen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19354.

The City of Tyler (the "city") has received a request for the file of an active investigation concerning an alleged delivery of a controlled substance. You claim the file, which has been submitted for our review, is excepted under section 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. Open Records Decision Nos. 474 (1987); 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *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) at 3-4 (list of factual information available to the public) (copy enclosed). Except for information found to be public in *Houston Chronicle Publishing Company*, you may withhold the requested information under section 3(a)(8).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/LBC/jmn

Ref.: ID# 19354
ID# 19382

Enclosures: Open Records Decision No. 127
Marked documents

cc: Jackie Roy Roberts
206 East Elm Street
Tyler Texas 75702
(w/o enclosures)