



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 27, 1994

Ms. Gretchen Kuehn Bohnert
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR94-040

Dear Ms. Bohnert:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22484.

The City of Houston (the "city") has received an open records request for information obtained by the Public Integrity Review Group (PIRG) of the Houston Police Department in investigating allegations of employee misconduct in the Parks and Recreation Department of the city. The PIRG has undertaken a criminal investigation of this matter. The city has produced some of the requested information but claims some of the documents are protected from disclosure. The city claims that such information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code (formerly sections 3(a)(1), 3(a)(3), and 3(a)(11) of the act).

Section 552.108 provides that:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of section 552.021.

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

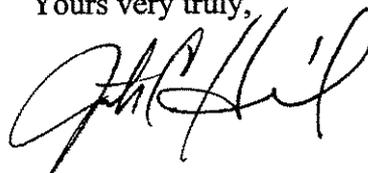
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of section 552.021.

Traditionally, when applying section 552.108, this office has distinguished between cases that are still under active investigation and those that are closed. In cases that are still under active investigation, this section exempts 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.] 1984, writ ref'd n.r.e.); Open Records Decision No. 127 (1977). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977); Attorney General Opinion MW-466 (1982); Open Records Decision Nos. 434; 444 (1986).

The city may claim section 552.108 with respect to information that it intends to report, or has reported, to a law enforcement agency. *See Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 493 (1988) at 2; 272 (1981); 183 (1978).* The city may claim section 552.108 as to this information. The city claims that PIRG is still conducting a criminal investigation of the suspected activities in the Parks and Recreation Department. Therefore, most of the information may be withheld from disclosure except for the type of information normally found on the front page of an offense report. We enclose a copy of Open Records No. 127, which lists the types of information that are considered public under the Open Records Act and which must be disclosed.²

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 our office.

Yours very truly,



Juanita C. Hernandez
Special Assistant Attorney General
Open Government Section

JCH/SLG/rho

² Because section 552.108 resolves your disclosure question, we do not need to address your arguments under sections 552.101 and 552.111.

Ref.: ID# 22484

Enclosures: Open Records Decision No. 127
Submitted documents

cc: Mr. Robert L. Mosty, Jr.
10515 Sage Willow
Houston, Texas 77089
(w/o enclosures)