



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 24, 1994

Mr. Brian N. Hail
Law Offices of Cowles & Thompson
901 Main Street, Suite 4000
Dallas, Texas 75202-3793

OR94-133

Dear Mr. Hail:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 23580.

The Town of Addison (the "town"), which you represent, has received a request for a copy of a certain offense report. You advise us that some of the requested information has been made available to the requestor, namely, information generally found on the first page of the offense report and specifically made public in *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). You seek to withhold the remaining information, however, and claim that sections 552.103(a) and 552.108 of the act except it from required public disclosure.

Section 552.108 excepts from required public disclosure:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime
- (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.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. 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.

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976). You advise us that the information submitted to us for review relates to an active investigation. Accordingly, we conclude that the town may withhold the submitted information from required public disclosure under section 552.108 of the act. As we resolve this matter under section 552.108, we need not address the applicability of section 552.103(a) at this time.

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,



Rick Gilpin
Assistant Attorney General
Open Government Section

RG/GCK/rho

Ref.: ID# 23580

Enclosures: Submitted documents

cc: Mr. Ken Montez
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(w/o enclosures)