



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 29, 1996

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR96-0097

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38083.

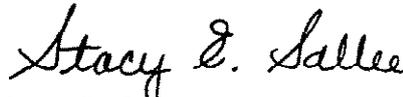
The Houston Police Department (the "department") received two open records requests for all records pertaining to the department's investigation of a fatal traffic accident which was allegedly caused by an off-duty Houston police officer while driving while intoxicated. You state that you have released to the requestors the accident report, a press release, and the "front page offense report" information as specified 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). You seek to withhold all remaining investigative materials, including records of a related internal affairs investigation, pursuant to sections 552.103(a) and 552.108 of the Government Code.

When a governmental body claims section 552.108, the relevant question this office must address is whether the release of the requested information would undermine a legitimate interest relating to law enforcement or prosecution. Open Records Decision No. 434 (1986). One of the purposes of the exception is to protect law enforcement and crime prevention efforts by preventing suspects and criminals from using records in evading detection and capture. See Open Records Decision Nos. 133 (1976), 127 (1976). Traditionally when applying section 552.108, our 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, supra*; Open Records Decision No. 127 (1976).

Because the criminal charges against the police office are still pending, we conclude that the department may withhold at this time all of the remaining requested information pursuant to section 552.108.¹ 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.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/RWP/ch

Ref.: ID# 38083

Enclosures: Submitted documents

cc: Mr. Ron D. Coffel
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(w/o enclosures)

Mr. David M Russell
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(w/o enclosures)

¹Because we resolve your request under section 552.108, we need not address in this ruling the extent to which section 552.103(a) would otherwise apply to these records.