



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 19, 1996

Mr. Edward H. Perry  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-0578

Dear Mr. Perry:

You have asked 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# 39213.

The City of Dallas (the "city") received requests for reports and tapes related to a fatal automobile accident between a city police car and another vehicle. You state that there is an active investigation and that the matter will be referred to the Dallas County grand jury. You indicate that some of the requested information has been disclosed, but that witness statements and a videotape of the accident scene are excepted from disclosure under section 552.108 of the Government Code. The statements and videotape were submitted to this office for review.

When applying section 552.108, this office distinguishes between cases that are still under active investigation or prosecution and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation or prosecution, section 552.108 excepts from disclosure all information except that generally found on the first page of an offense or arrest report. *See 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*, 586 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Section 552.108 is applicable while the case is being investigated and through prosecution. Attorney General Opinion MW-446 (1982) at 2.

We have reviewed the records at issue. We agree that since the witness statements and videotape relate to the active investigation, they may be withheld from disclosure under section 552.108.<sup>1</sup>

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,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref.: ID# 39213

Enclosures: Submitted videotape and documents

cc: Mr. L.B. Lyon  
Dallas News Manager  
Channel 11 News  
2777 Stemmons Frwy. Suite 1189  
Dallas, Texas 75207  
(w/o enclosures)

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<sup>1</sup>You also submitted to this office two letters, both dated February 19, 1996, seeking information related to the accident. One of the requestors clearly stated that he was seeking the information pursuant to chapter 552 of the Government Code. You also submitted a court order dated February 23, 1996, ordering the city to produce most of the information requested in those letters. Since you apparently did not timely seek a decision from this office concerning these prior requests, we assume the items at issue have already been released or are the subject of another court order.