



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1996

Ms. Bonnie Lee Goldstein
Vial, Hamilton, Koch & Knox, L.L.P.
1717 Main Street, Suite 4400
Dallas, Texas 75201-4605

OR96-0603

Dear Ms. Goldstein:

You have asked this office to determine if information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. The City of McKinney (the "city") received a request for information concerning a specific person. We assigned your request ID# 38783.

The city received a request for the following information:

Copies of all offense and arrest reports, search and arrest warrants and affidavits, statements made by **Sharon Hossack**, and other related police reports concerning **Sharon Hossack** for the offense of Driving While Intoxicated allegedly committed in March 1994.

We have examined the information submitted to us for review. You contend that *all* of the information submitted should be withheld from public disclosure, pursuant to section 552.103, and alternatively section 552.108, of the Government Code based on an ongoing criminal investigation conducted by the district attorney's office, which has been re-set for jury trial in May, 1996.

Section 552.108 excepts from required public disclosure the following information:

(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.

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.¹ See generally Open Records Decision No. 127 (1976). You advise us that the requested information relates to an active criminal investigation. For this reason, we conclude that the city may withhold the requested information, except to the extent that it includes first-page offense report information, under section 552.108 of the Government Code.² See generally *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).

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 may 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,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 38783

Enclosures: Submitted documents

cc: Mr. Paul G. Stuckle
Attorney at Law
112 South Kentucky Street
McKinney, Texas 75069
(w/o enclosures)

¹The information generally found on the first-page of the offense report includes not only the details of the arrest, but also a detailed description of the offense and the names of the investigating officers. *Houston Chronicle*, 531 S.W.2d at 185, 187; Open Records Decision No. 127 (1976) at 3-4.

²Similarly, section 552.103(a) cannot be invoked to withhold from public disclosure basic front page offense report information that has already been made available to defendant in criminal litigation. Open Records Decision No. 597 (1991).