



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 17, 1997

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

OR97-2774

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110895.

The City of Houston received a request for a copy of incident report #113681997. You claim that portions of the requested report are excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the offense report.

The Seventy-fifth Legislature amended section 552.108 of the Government Code to provide in part:

(a) Information held by 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 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

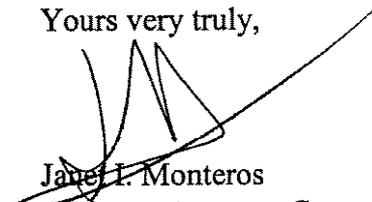
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. You state "Because this incident occurred so recently, the investigation has not resulted in a conviction or deferred adjudication. No arrest has been made. . . ." You then assert that the requested offense report contained in Exhibit 2 should be withheld.

We have determined that, unless information relating to a criminal investigation or prosecution *concluded in a result* other than a conviction or deferred adjudication, it may not be withheld under section 552.108(a)(2) or (b)(2). You inform this office that the "requested records have not resulted in a final conviction or a deferred adjudication." As you have not shown that the requested information relates to a criminal investigation or prosecution that *did not* result in a conviction or a deferred adjudication, we find that you have not shown the applicability of section 552.108(a)(2) or (b)(2) to the requested information. Nor have you shown that any other provision of section 552.108 is otherwise applicable to the information at issue. You must therefore release the requested information in its entirety.

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,



Jane I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/ulg

Ref: ID# 110895

Enclosures: Submitted documents

cc: Ms. Gabriela Vaquero  
10 South Briarhollow Lane, # 42  
Houston, Texas 77027  
(w/o enclosures)