



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 11, 1998

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR98-1889

Dear Mr. Steiner:

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# 117173.

The City of Austin (the "city") received a request for information concerning a particular offense. You state that the city has already provided to the requestor "first page" information concerning the offense.¹ You assert that the remaining information may be withheld from disclosure pursuant to sections 552.101, 552.103, 552.108 and 552.119 of the Government Code.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You explain that there is a pending criminal prosecution concerning the incident. Since there is a pending criminal prosecution, we agree that you have shown that release of this information would interfere with the prosecution of crime. *Houston Chronicle Publ'g 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) (court delineates law enforcement interests that are present in active cases); *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal

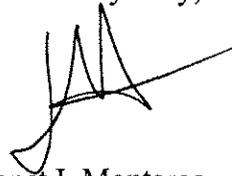
¹We note that section 552.108(c) provides that "basic information about an arrested person, an arrest, or a crime" is not excepted from disclosure. Front page offense report information must generally be disclosed, since this type of information provides basic information about the allegations. *See generally Houston Chronicle Publ'g 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) (front page offense report information is generally considered public).

case would interfere with prosecution of crime and law enforcement interests). Thus, the city may withhold the information at issue from disclosure.²

Section 552.119 of the Government Code prohibits the release of a photograph that depicts a peace officer as defined by article 2.12 of the Code of Criminal Procedure except in certain circumstances. The submitted photograph depicts a peace officer. Accordingly, unless one of the exceptions set forth in section 552.119 applies or the officers consent to the release of the photograph, you must withhold the photograph under section 552.119. We note that the department has discretion to release all or part of the information at issue that is not otherwise made confidential by law. Gov't Code § 552.007.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref: ID# 117173

Enclosures: Submitted documents

cc: Mr. Laylan Copelin
Austin American-Statesman
P.O. Box 670
Austin, Texas 78767-0670
(w/o enclosures)

²Because the information may be withheld from disclosure under section 552.108, we need not address your section 552.101 and 552.103 arguments.