



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 23, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston-Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR98-2276

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 118168.

The City of Houston (the "city") received a request for a copy of the Public Integrity Review Group ("PIRG") investigation report, concerning an allegation of violations by a city employee, referenced by number O.I.G. #98-29. In response to the request, you submit to this office for review a copy of the information which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code, excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(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 [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

In your brief to this office, you explain that the information discovered during the investigation was presented to the Harris County District Attorney's Office, which declined to accept criminal charges against the city employee. In reliance on your statements in support of the claimed section 552.108 exception, we conclude that, because the requested information relates to an investigation that did not result in a conviction or deferred adjudication, you may withhold the PIRG investigation report under section 552.108(a)(2).¹

We note, however, that you must provide the requestor with the basic front page offense report information in the submitted documents, including a detailed description of the offense. Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Front page offense report information is the basic information required to be disclosed. *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). Therefore, we conclude that, except for basic information subject to release, section 552.108(a)(2) of the Government Code excepts the requested information from public disclosure.²

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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 118168

¹This office has determined that section 552.108 does not protect general personnel information from public disclosure. Open Records Decision No. 562 (1990) at 10 (applying predecessor statute).

²Although section 552.108 authorizes you to withhold the information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov't Code § 552.007.*

Enclosures: Submitted documents

cc: Ms. Deborah M. Cole
7847 Duffield Lane
Houston, Texas 77071
(w/o enclosures)