



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 29, 1997

Mr. Miles K. Risley
Senior Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR97-2194

Dear Mr. Risley:

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# 108940.

The City of Victoria (the "city") received an open records request for the police offense report and all supplemental reports pertaining to a particular theft. You explain that this case is currently being investigated for presentation to the city attorney for prosecution. You contend that, except for the categories of information specifically made public in *Houston Chronicle Publishing Company 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), the requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

Section 552.108 of the Government Code, as amended by the Seventy-fifth Legislature, 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:

(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; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state [and]

(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 . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

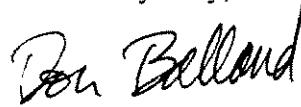
(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

Because you have informed us that the records at issue pertain to a pending criminal investigation, we conclude that you have met your burden of establishing that the release of the requested information at this time could interfere with law enforcement or prosecution. *See* Open Records Decision No. 216 (1978). The city therefore may withhold most of the requested information at this time pursuant to section 552.108. Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person,

an arrest, or a crime.” Gov’t Code § 552.108(c). Because you have raised no other exception to disclosure, the city must release these types of information in accordance with *Houston Chronicle*.¹

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/ch

Ref.: ID# 108940

Enclosures: Submitted documents

cc: Mr. Jack E. Myers
1404 East Red River
Victoria, Texas 77901-5521
(w/o enclosures)

¹We note that the records at issue implicate juvenile suspects. Prior to its repeal by the 74th Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records, and law-enforcement records pertaining to conduct occurring before January 1, 1996, are governed by the former section 51.14(d), which was continued in effect for that purpose. This office has concluded, however, that section 58.007 of the Family Code, as enacted by the 74th Legislature, did not extend confidentiality to juvenile law enforcement records relating to conduct that occurred on or after January 1, 1996. Open Records Decision No. 644 (1996). Although the 75th Legislature amended section 58.007 to once again make juvenile law-enforcement records confidential, effective September 1, 1997, it chose not to make this most recent amendment retroactive in application. Consequently, law-enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and August 31, 1997, are not subject to the confidentiality provisions of either section 51.14(d) or section 58.007 of the Family Code.

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