



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 15, 1997

Mr. Robert Gracia
Chief of Police
Office of the Chief of Police
City of Rosenberg
2120 Fourth Street
Rosenberg, Texas 77471-5124

Mr. Firmin A. Hickey, Jr.
Rosenberg City Attorney
Law Offices of Firmin A. Hickey, Jr.
11511 Katy Freeway, Suite 590
Houston, Texas 77079-1903

OR97-2297

Dear Mr. Gracia and Mr. Firmin:

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# 109511.

The City of Rosenberg (the "city") received a request for

Any and all documents regarding termination and/or appeal of termination for Sergeant Todd Riley [sic]. This includes all documents regarding investigative findings and those served on the employee spelling out the reason for termination.

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 provides in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 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; 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.

Because the Legislature has amended section 552.108, effective September 1, 1997, this office requested additional briefing on your claimed exception to disclosure. *See* Act of June 1, 1997, H.B. 951 § 1, 75th Leg., R.S. (to be codified at Gov't Code § 552.108). In response to our request for additional information, you state that the requested records relate to an ongoing investigation which could result in the filing of criminal charges. As the documents at issue relate to a pending criminal investigation, we conclude that release of the requested information would interfere with the detection, investigation, or prosecution of crime and thus, it is excepted from disclosure under section 552.108(a)(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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 109511

Enclosures: Submitted documents

cc: Mr. Joe Izbrand
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(w/o enclosures)