



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 13, 1998

Mr. David M. Feldman
Feldman & Rogers, L.L.P.
12 Greenway Plaza, Suite 1202
Houston, Texas 77046

OR98-0696

Dear Mr. Feldman:

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# 113335.

The Alvin Independent School District (the "district") received a request for information including investigative materials developed by the district which have been turned over to the Brazoria County District Attorney. 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, the "law enforcement exception," provides in relevant part as follows:

(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

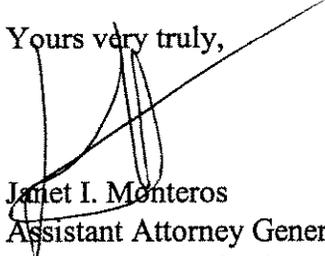
You state that the district and the Brazoria District Attorney consider the case open and the investigation ongoing and a decision whether to submit the case to a grand jury has not yet been made. You have transferred the investigative materials to the district attorney. We note that documentary evidence in a police file in a pending case is excepted by section 552.108, even when it is held by a non-law enforcement agency. Open Records Decision 183 (1978). Additionally, we note that the Brazoria County District Attorney's office submits a letter indicating that it is in the process of investigating criminal allegations in the instant case. As the requested information relates to a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution

of crime.¹ *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).

However, we note that basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.3d 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). Thus, except for basic information, the requested information is excepted from disclosure under section 552.108(a)(1). Although 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.*

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/gle

Ref.: ID# 113335

Enclosures: Submitted documents

cc: Mr. James A. Bernsen
The Facts
P.O. Box 549
Clute, Texas 77531
(w/o enclosures)

¹We observe that to the extent the district possesses information responsive to the other categories of information outside of the investigation, you have made that information available to the requestor.