



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 13, 1996

Mr. David Mendez  
Bickerstaff, Heath, Smiley, Pollan,  
Kever & McDaniel  
816 Congress Avenue  
Austin, Texas 78701-2443

OR96-0947

Dear Mr. Mendez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39779.

The Austin Independent School District (the "district") received a request for information relating to the arrest of an individual. You have provided this office with a copy of the requested information and assert that this information is excepted from disclosure under sections 552.101, and 552.108 of the Government Code.

Section 552.108(a) excepts from disclosure "information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." When applying section 552.108, this office distinguishes between cases that are under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing 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). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

You advise us that the requested information relates to an active criminal investigation. For this reason, we conclude that the district may withhold the requested information under section 552.108 of the Government Code, except to the extent that

it includes the type of information generally found on the first-page of an offense report. We note that the district must release the type of information deemed public by the *Houston Chronicle Publishing Co.* case regardless of its location within an investigation file. The content of the information determines whether it must be released in compliance with the *Houston Chronicle Publishing Co.* case, not its literal location on the first page of an offense report.

You also ask whether the information is made confidential under section 552.101 of the Government Code, which excepts from disclosure information made confidential by law. Specifically, you ask whether the information is made confidential under various provisions of the Family Code that concern juvenile offenders. Open Records Decision No. 644 (1996) resolves this issue. In that ruling, this office concluded that section 58.007 of the Family Code does not make confidential juvenile records concerning conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. We enclose a copy of Open Records Decision No. 644 (1996) for your information.

We are resolving this matter with this 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 may 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,



Robert W. Schmidt  
Assistant Attorney General  
Open Records Division

RWS/rho

Ref.: ID# 39779

Enclosures: Submitted documents  
Open Records Decision No. 644 (1996)

cc: Mr. Ruben I. Barrera  
2216 College Avenue  
Austin, Texas 78704  
(w/o enclosures)