



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1997

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

OR97-2339

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110166.

The City of Victoria Police Department (the "department"), which your office represents, received a request for a "[a]ll records including statements and notes concerning assault by contact charges on 8/13/97 against Thomas Leos made by Marsha Garcia." In your letter to this office, you state that you have authorized the release of certain information to the requestor.¹ However, you contend that the remaining information is excepted from required public disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the Seventy-fifth Legislature amended section 552.108 of the Government Code to read as follows:

- (a) Information 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

¹As you have noted, basic information normally found on the front page of an offense report is generally considered public. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 536 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (1976); Open Records Decision No. 127 (1976). The content of the information determines whether it may be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public under *Houston Chronicle*.

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.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. You state that "the incident, which this request concerns involves an assault by contact that . . . is still being investigated by [the department]." After reviewing the submitted records, we believe that the material at issue is information of a law enforcement agency that deals with the investigation and prosecution of crime. Although you state that you have released front page offense report information to the requestor, we note that it appears that you have not provided the requestor with a detailed description of the offense pursuant to *Houston Chronicle*. You must provide this information to the requestor. See Gov't Code § 552.108(c); Open Records Decision No. 127 (1976). We conclude that section 552.108(a) excepts the remaining information from required public disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. 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,



Sam Haddad
Assistant Attorney General
Open Records Division

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Ref. ID# 110166

Enclosures: Submitted documents

cc: Mr. Robert B. Whitaker
304 S. Main
Victoria, Texas 77901
(w/o enclosures)

