



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 31, 1997

Mr. Kevin D. Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR97-2422

Dear Mr. Pagan:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 109762.

The City of McAllen (the "city") received a request for information about a murder that occurred in 1994. You assert that the information at issue is protected from disclosure under section 552.108 of the Government Code.

The Seventy-Fifth Legislature amended section 552.108 of the Government Code to read, in part, 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 Section 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.

See Act of June 1, 1997, H.B. 951, § 1, 75<sup>th</sup> Leg., R.S. (to be codified at Gov't Code § 552.108).

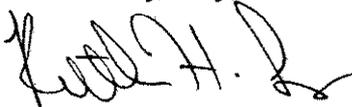
Prior to its amendment, section 552.108 excepted from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Because your request for a decision was received by this office prior to September 1, 1997, the effective date of the amendment to section 552.108, this office gave the city the opportunity to supply additional briefing concerning the applicability of the amended statute to the information at issue. You have supplied this office with no further information showing the applicability of section 552.108, as amended, to the requested records.

You assert that “the proper legal standard to apply the law is the law as it existed before September 1, 1997.” We disagree. In *Houston I.S.D. v. Houston Chronicle Pub. Co.* 798 S.W. 2d 580 (Tex. App.--Houston [1<sup>st</sup> Dist.]1990), the court determined that the Houston Chronicle’s right to requested information did not vest until a final determination was rendered about information requested under the Open Records Act. See Gov’t Code § 552.303(a) (when governmental body seeks decision from attorney general, “final determination” occurs when attorney general or court renders decision). Because a final determination about the information at issue came after the Open Records Act was amended, the amended statute was the appropriate law to apply. *Houston I.S.D. v. Houston Chronicle Pub. Co.* 798 S.W. 2d 580 (Tex. App.--Houston [1<sup>st</sup> Dist.]1990).

You have not shown that section 552.108, as amended, or any other exception to disclosure under chapter 552 of the Government Code protects the requested information from disclosure. Thus, the requested information must be disclosed.

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 any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/SAB/ch

Ref: ID# 109762

Enclosures: Submitted documents

cc: Mr. Ted Rodriguez, Jr.  
502 West University Drive  
Edinburg, Texas 78539  
(w/o enclosures)