



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 16, 1998

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

OR98-1688

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# 116753.

The City of Victoria (the "city") received a request for "[i]ndictment papers from February '96 (2 counts), 1-August '96." In response to the request, you submit to this office for review the information which you assert is responsive. You explain 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 sections 552.103, and 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:

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*, 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). The content of the information determines whether it must 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 by *Houston Chronicle*.

(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 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.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that “the incidents, which this indictment concerns involves controlled substance offenses . . . [which] are also being investigated for possible . . . criminal prosecution.” 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 a detailed description of the offense must also be provided to the requestor pursuant to *Houston Chronicle*.² See Gov't Code § 552.108(c); Open Records Decision No. 127 (1976). Accordingly, we conclude that the city may withhold the remaining requested information from the requestor based on section 552.108(a)(1).

²Basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991).

However, 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.

Because we are able to make a determination under section 552.108, we do not address your other argument against disclosure. 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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref. ID# 116753

Enclosures: Submitted documents

cc: Mr. Omar King
808 Levis Road
Victoria, Texas 77901
(w/o enclosures)