



# City of Austin

Founded by Congress, Republic of Texas, 1839

October 12, 1994

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Honorable Dan Morales  
Texas Attorney General  
Supreme Court Building  
P.O. Box 12548  
Austin, Texas 78711-2548

RE: Open Records Request of Richard Davis

Dear General Morales:

The Austin Police Department received a request from a Richard Davis requesting copies of offense reports of all arrests recorded to a David Reitz. A copy of the request is included as Attachment A.

Pursuant to section 552.301 of the Government Code, the City of Austin requests your decision whether the requested information is excepted from public disclosure under the Texas Open Records Act, Government Code, Section 552.101.

Providing all offense reports involving the arrest of David Reitz would in effect be providing the criminal history of David Reitz as it relates to the Austin Police Department. It would provide a chronological history of arrests of David Reitz. As catalogued in Open Records Decision No. 127 (1976), the court in 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) considered that the chronological history of any arrests and disposition was part of personal history and arrest record and held that it was not available to the public. In Houston Chronicle, the court held that release of documents which contained criminal history records in the form sometimes referred to as a "rap sheet" would constitute an unwarranted invasion of an arrestee's privacy interests. *Id.* at 188. See also, Open Records Decision No. 616 at 2 (1993). Release of the records in this case would allow a "rap sheet" to be created.

Release of the information requested would not interfere with law enforcement or crime prevention in this case. The City of Austin requests your opinion on whether release of the records in the form requested would be an unwarranted invasion of privacy under the holding of Houston Chronicle and subsequent Open Records decisions which have recognized a privacy interest in criminal history information.

VIA FACSIMILE

COA

ML-29749-94  
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RO-777

Honorable Dan Morales  
October 12, 1994  
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Copies of the records requested are not included since the contents of the reports themselves are of secondary concern. The fact that the request is for arrest information to be compiled for a specific individual is our concern. If you require copies of the reports involved or have any questions in this matter, please contact Assistant City Attorney Robert P. Rose at (512) 480-5047.

Sincerely,



Charles E. Griffith, III  
Deputy City Attorney

CROSS# C:\NA\FD\1012\MORAL-TR

Attachment

cc: Richard Davis  
Robert P. Rose, Assistant City Attorney

GARY C. LANDERS  
CITY ATTORNEY  
JAMES SHOWEN  
SHARON K. FISHER  
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CERTIFIED LEGAL ASSISTANT



CITY OF TYLER  
TEXAS

Legal Department

P.O. BOX 2039  
TYLER, TEXAS 75710  
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212 NORTH BONNER  
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May 5, 1994

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Honorable Dan Morales  
Attorney General  
Open Records Division  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

FILE # RQ-00777  
MC-26267-94 Opinion Committee  
I.D.# 26267 31521

RE: Open Records Request of ISIS Investigations, Inc., Our File No. 94-0132

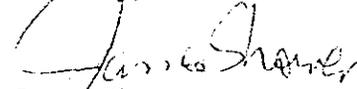
Dear General Morales:

**RQ-777**

The City of Tyler Police Department has received the enclosed open records requests. Although the enclosed request states that it is under the Open Records Act, the request is actually a request for information concerning Bobby Charles Dunning, a black male, rather than a request to see documents. The request is for information that would be present in police investigative reports, but does not identify any such report by date or in connection with any particular incident. We object to responding to such a request on the grounds that request is the same as a request for a the criminal history of Mr. Dunning. In order to respond to this request it would be necessary to find and to hand over to ISIS the record of every request or incident involving Mr. Dunning known to the Tyler Police Department. While the release of reports pertaining to specific incidences which are part of the criminal history of a person may be compelled by the Open Records Act, we believe that the request for a complete criminal history is not compelled. The distinction between the public nature of complete criminal histories and incident reports is established in the Houston Chronicle case as well as the Texas Open Records Act Handbook on pages 63-64. We request your opinion of whether the City of Tyler must release the information requested.

We are forwarding under separate cover the examples of records which are the subject of this request. We are requesting that these records be returned to us following your use of them and that they not be copied or become part of your official files.

Sincerely,

  
James Showen  
Sr. Assistant City Attorney

Js:jf  
cc: ISIS Investigations, Inc.  
218 West Erwin Street  
Tyler, Texas 75702

Captain Collard

