



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Mr. Dean J. Johnson  
Police Legal Adviser  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR95-836

Dear Mr. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34718.

The Baytown Police Department received four separate requests for information concerning the death investigation of a juvenile victim. Although you have released four pages of documents, with redactions, you contend that the remaining information and the information redacted from the released documents is excepted from required public disclosure under sections 552.101 and 552.108 of the Government Code.

Section 552.108 excepts, in part, information relating to an incident involving allegedly criminal conduct that is still under active investigation or prosecution. Open Records Decision Nos. 474 (1987), 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *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) at 3-4 (listing factual information available to public). You contend that the case is "open" and that no determinations concerning whether the investigation will proceed can be made until the department receives the official report from the medical examiner's office. Accordingly, except for information deemed public by the *Houston Chronicle Publishing Co.* case, you may withhold the requested information under section 552.108.

We note, however, that the redactions you made to the released documents do not comply with the mandates of the *Houston Chronicle Publishing Co.* case. You must release, among other things, the offense committed, the names of investigating officers, and a detailed description of the offense. Open Records Decision No. 127 (1976) at 4. Moreover, you have redacted information contained on the "Baytown Police Department Media Report." If this information was disclosed to the media, it may not be withheld under section 552.108 of the Government Code. See Gov't Code § 552.007. As we resolve this request under section 552.108, we need not address the applicability of section 552.101 of the Government Code.<sup>1</sup>

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Open Government Section

KHG/LBC/rho

Ref: ID# 34718

Enclosures: Marked documents

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<sup>1</sup>The right of privacy lapses upon death. Attorney General Opinion JM-229 (1984). Texas law does not permit the family of a deceased person to maintain an action for the deceased's right of privacy because that right is personal, and a deceased person has no right of privacy. Open Records Decision No. 432 (1985). Moreover, although portions of the requested information may implicate constitutional privacy issues in connection with the victim's family, privacy interests arise only in the context of a particular individual vis `a vis others, and are not implicated where only the person himself is concerned; where a person asks a governmental body only for information about himself, no privacy interest arises. Open Records Decision No. 481 (1987). The requestors are the decedent's biological mother, grandmother, stepmother, and father.