



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 18, 1996

Mr. Patrick S. Dohoney  
Assistant District Attorney  
Office of the Criminal District Attorney  
Justice Center  
401 W. Belknap  
Fort Worth, Texas 76196-0201

OR96-0569

Dear Mr. Dohoney:

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#38549.

The Tarrant County Sheriff's Department (the "department") received a request for certain information comprising:

- (a) The number of inmates transported to any facility outside the Tarrant County jail within the past twelve (12) months, including the date and purpose of the transport.

You made the initial determination that the requestor needed to provide more specificity and sent correspondence to the requestor on February 1, 1996.<sup>1</sup> The requestor did not reply. That notwithstanding, you have submitted documents for our review and contend the requested information is excepted from required public disclosure under section 552.101 and 552.108 of the Government Code.<sup>2</sup>

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<sup>1</sup> You contend that the request for information is overbroad and unclear, and that therefore the requested information is not subject to disclosure. We disagree. A request for information may not be denied merely because it seeks a large amount of information. *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). A governmental body must make a good faith effort to relate a request to information that it holds. Open Records Decision No. 87 (1975) at 3. We note that you have submitted information to our office that is responsive to the request.

<sup>2</sup> We note that you point out that the request was made by an attorney who recently represented a female inmate who requested an abortion, and indicate that the request may be related to this matter. The Open Records Act prohibits consideration of the motives of the requesting party. Open Records Decision No. 542 (1990).

Section 552.101 protects information when disclosure of the information would constitute the common-law tort of invasion of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision Nos. 628 (1994) at 4, 579 (1990) at 2, 562 (1990) at 9. Information may be withheld under section 552.101 in conjunction with the common-law right of privacy if: (1) the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and (2) the information is of no legitimate concern to the public. See Open Records Decision No. 628 (1994). The information you submitted as "Exhibit C" does not meet either criterion. The information reveals names of prisoners, after the fact destination and/or purpose for movement notations, and the date and time out, date and time in. The names of prisoners on a jail roster as well as transfer information are public. See, e.g., Open Records Decision No. 394 (1983) at 4 (name of suspect, the offense, booking information, notation of any release or transfer). A review of the notations on the reasons for the transfers yields no intimate details pertaining to the prisoners other than "hospital run," "hosp ER," "Clinic Run/Urology," or "Federal Cort<sub>(sic)</sub>"

Next, we address your assertion that section 552.108 of the Government Code excepts the requested information from required public disclosure. Section 552.108 excepts from required public disclosure

(a) [a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . [and]

(b) [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 . . .

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. See generally *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). Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how its release would unduly interfere with law enforcement or crime prevention. Open Records Decision No. 434 (1986) at 3 (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.* at 2.

From the review of the information provided as well as from the affidavit, it is not clear how the release of the requested information would unduly interfere with law enforcement since the information provided only refers to completed transfers. See, e.g., Open Records Decision No. 508 (1988) at 3 (Releasing the dates of transfer of specific prisoners to TDC could impair security, but after the transfer has been complete, the names of the transferees and their dates of

transfer are not excepted since the public has a legitimate interest in this information). We conclude that the sheriff's department must release the information in "Exhibit C" to the requestor.

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 questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/ch

Ref.: ID# 38549

Enclosures: Submitted documents

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(w/o enclosures)