



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 16, 1996

Mr. Robert J. Gervais
Assistant City Attorney
Legal Department
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR96-1476

Dear Mr. Gervais:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100112.

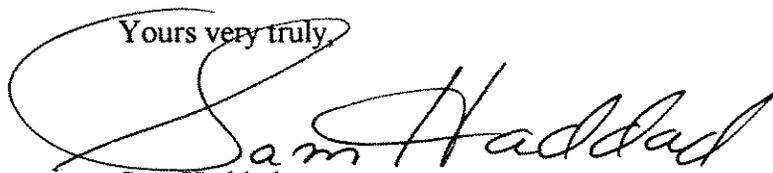
The City of Galveston Police Department (the "city") received a request for "all 911 records pertaining to a capital murder case # 95 CR 0400,401." You submitted to this office for review, in response to the request, an audio tape and what appears to be a 911 call record. You assert that the information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submissions at issue.

Section 552.108 of the Government Code, sometimes referred to as the "law enforcement" exception excepts 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." Gov't Code § 552.108; *See Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). You state that the requested information relates to the investigation of criminal allegations by the District Attorney's office in a pending capital murder trial. After reviewing the tape recording of the 911 call, we conclude that the audio tape and transcript are "internal record[s] or notation[s] of a law enforcement agency ... that [are] maintained for internal use in matters relating to law enforcement or prosecution." You may, therefore, withhold the information under section 552.108 of the Government Code.

With respect to the 911 call record, we note however that information normally found on the front page of an offense report is generally considered public.¹ *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). Thus, you must release the type of information that is considered to be front page offense report information. We, therefore, conclude that except for front page offense report information, the city may withhold the submitted information, including information identifying and describing witnesses, pursuant to section 552.108 of the Government Code.²

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 may 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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 100112

Enclosures: Tape recording and transcript

cc: Mr. Michael Letsos
c/o Kevin C. Reckoff
1819 Winnie Avenue
Galveston, Texas 77550
(w/o enclosures)

¹The 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*.

²Although section 552.108 authorizes you to withhold the requested information, we note also that since section 552.108 is discretionary with the governmental entity asserting the exception, you may choose to release all or part of the other information at issue that is not otherwise confidential by law. Gov't Code § 552.007.