



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 7, 1997

Mr. Ron M. Pigott  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR97-0727

Dear Mr. Pigott:

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# 104922.

The Texas Department of Public Safety (the "department") received open records requests from two requestors for information concerning the investigation of the fatal shooting of an individual by a department officer. You submitted to this office for review the available requested records and "contend [] that with the exception of the autopsy report, the information is exempt from disclosure in its entirety," under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.108 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."

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<sup>1</sup>As you have noted, autopsy reports are expressly made public under section 11, article 49.25 of the Code of Criminal Procedure; therefore, an autopsy report may not be withheld from disclosure. See Open Records Decision No. 529 (1989). We assume that a copy of the autopsy report has been released to the requestors.

Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). The submitted report relates to the investigation and prosecution of criminal allegations. Since the submitted records at issue come within the purview of section 552.108, we conclude that most of the information may be withheld under this section.

We note, however, that information normally found on the front page of an offense report is generally considered public.<sup>2</sup> *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). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure. Although section 552.108 authorizes the department to withhold the remaining information from disclosure, the department may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision.<sup>3</sup> 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,



Sam Haddad  
Assistant Attorney General  
Open Records Division

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Ref.: ID# 104922

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<sup>2</sup>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*.

<sup>3</sup>In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Enclosures: Submitted documents

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