



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 7, 1997

Ms. Karen S. Barland  
Central Records Supervisor  
Travis County District Attorney's Office  
P.O. Box 1748  
Austin, Texas 78767

OR97-0732

Dear Ms. Barland:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104993.

The Travis County District Attorney's Office (the "office") received a request for "any investigation reports, any statements, or any other documents pertaining to the investigation or prosecution of Emanuel Hernandez." You claim that most of the requested documents are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Among the documents submitted to this office are arrest warrants and other documents that appear to have been filed with a court. Documents filed with a court are generally considered public. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992); Attorney General Opinion DM-166 (1992). Therefore, the office must make these documents available to the public.

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." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). You acknowledge that information normally found on the front page of an offense report is generally considered public.<sup>1</sup> *Houston Chronicle Publ'g 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).

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<sup>1</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*.

However, the documents at issue include several offense reports, and you contend that the front page information from several offense reports constitutes criminal history record information. We agree. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). We, therefore, conclude that in this case the office must withhold the front page information from the offense reports from disclosure under section 552.101 of the Government Code in conjunction with the common-law right to privacy.<sup>2</sup>

The office may withhold the remaining documents from disclosure under section 552.108. In addition, we note that the remaining documents include items that are confidential by law. Therefore, we urge the office to exercise caution in releasing any of the documents that we have concluded may be withheld under section 552.108. *See Gov't Code § 552.352.*

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 104993

Enclosures: Submitted documents

cc: Mr. Bill Robins III  
Fisher, Gallagher & Lewis, L.L.P.  
1000 Louisiana, 70th Floor  
Houston, Texas 77002  
(w/o enclosures)

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<sup>2</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."