



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1997

Mr. Forrest K. Phifer
Attorney at Law
P.O. Box 829
Rusk, Texas 75785

OR97-0752

Dear Mr. Phifer:

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# 106027 (formerly assigned 105849).

The City of Rusk (the "city"), which you represent, received three requests for information concerning the arrest of a named individual, including all arrest records, incident reports, police blotter, showup sheets or other police reports pertaining to the arrest of, detention of, or complaint against the individual. You advise that you have provided the requestors with "certain basic" information from an offense report concerning the arrest of the named individual on or about February 9, 1997. However, you contend that the remainder of the requested information is excepted from public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the material you submitted.

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). Because the information at issue comes within the purview of section 552.108, we conclude that most of the requested material may be withheld under this section.

We note, however, that information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public.¹ *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--

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*.

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 types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. For your convenience, we are enclosing a summary of the types of information that are generally public and must be released. Although section 552.108 authorizes the city to withhold the remaining information from disclosure, the city may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.²

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 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,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 106027

Enclosures: Submitted documents
Summary of Open Records Decision No. 127

cc: Mr. Andy Shaw
News Director, KETK-TV
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Enclosure: Summary of Open Records Decision No. 127

²Where 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). Thus, in instances where the requestor asks for *all* information concerning a certain person and the named individual is a possible suspect, such information must be withheld under section 552.101 of the Government Code. *See id.*; Gov't Code § 411.106(b).

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