



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 11, 1997

Ms. Felicia Wasson
Assistant City Attorney
City of Dallas Criminal Law and Police Division
Municipal Building
Dallas, Texas 75201

OR97-0792

Dear Ms. Wasson:

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# 104821.

The Dallas Police Department (the "department") received a request for all records concerning a named individual. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

As the release of confidential information under the Open Records Act constitutes a misdemeanor, the attorney general will raise section 552.101 on behalf of a governmental body, although the attorney general will not ordinarily raise other exceptions that a governmental body has failed to claim. *See* Open Records Decision Nos. 455 (1987) at 3, 325 (1982) at 1. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report;

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

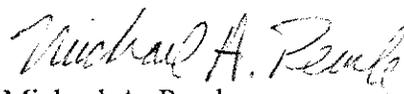
Two of the three documents you seek to withhold involve the investigation of the death of a child. Accordingly, as the other provisions of section 261.201 do not appear to apply here, nor are we aware of any rules promulgated by the department which permit the dissemination of this type of information, we conclude that part of the requested information is made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101. See Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08). We have marked this information for your convenience.

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 records at issue pertaining to the charge of possession of marijuana clearly come within the purview of section 552.108, we conclude that most of the information at issue 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. *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 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.

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 104821

Enclosures: Marked documents

cc: Amarecu Abebe
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Dallas, Texas 75231
(w/o enclosures)

