



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 25, 1997

Lieutenant Andrew J. Daniel  
City of League City  
Police Department  
500 W. Walker Street  
League City, Texas 77573

OR97-2172

Dear Lieutenant Daniel:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109422.

The City of League City Police Department (the "department") received a request which you contend "seeks all records, investigative files, correspondence, recordings, photographs, affidavits, reports, documentary evidence, and all listings of physical evidence in any way relating to the investigation of the death of Laura Lynn Miller."<sup>1</sup> In response to the request, you submitted to this office for review a representative sample of the information you assert is responsive.<sup>2</sup> You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Seventy-Fifth Legislature amended section 552.108 of the Government Code to read as follows:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

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<sup>1</sup>To the extent that this request encompasses an autopsy report, we note that autopsy reports are expressly made public by the Code of Criminal Procedure. Code Crim. Proc. art. 49.25, § 11.

<sup>2</sup>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). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
  - (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or
- ....
- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

*See* Gov't Code § 552.108. Although the incident at issue appears to have occurred sometime between 1984 and 1986, you state that release of the requested information "could make the already difficult task of continuing this investigation impossible." *See generally* Open Records Decision Nos. 518 (1989), 216 (1978) at 4. Furthermore, you assert that "[t]here are suspects in this case which have not been eliminated and the case remains under active investigation." As the requested information relates to a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, most of the information at issue may be withheld pursuant to section 552.108(a)(1).

We note, however, that you must release the type of information that is considered to be basic front page offense report information even if this information is not actually located on the front page of the offense report. *See* Gov't Code § 552.108(c) (basic information about arrested person, arrest and crime not excepted by section 552.108); *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). Section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 109422

Enclosures: Submitted documents

cc: Mr. Lee Hamel  
Lee Hamel & Associates  
333 Clay Street, Suite 777  
Houston, Texas 77002  
(w/o enclosures)

