



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 19, 1998

Ms. Tina Morales  
Senior Records Analyst  
County of Travis  
Office of the District Attorney  
P.O. Box 1748  
Austin, Texas 78767

OR98-0488

Dear Ms. Morales:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Texas Open Records Act. Your request was assigned ID# 112830.

The Office of the Travis County District Attorney (the "district attorney") received a request for "any and all records dated from March 1997 through the present available under the Open Records Act with regard to Emanuel Hernandez." You assert that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and have reviewed the documents submitted.

Section 552.108 provides that:

(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:

(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

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<sup>1</sup>As a preface to our discussion, we note that this office has previously addressed certain related matters. In Open Records Letter No. 97-0732 (1997), our office specifically addressed the release of "any investigation reports, any statements, or any other documents pertaining to the investigation or prosecution of Emanuel Hernandez." The pending request seeks "any and all records from March 1997 through the present."

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(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.

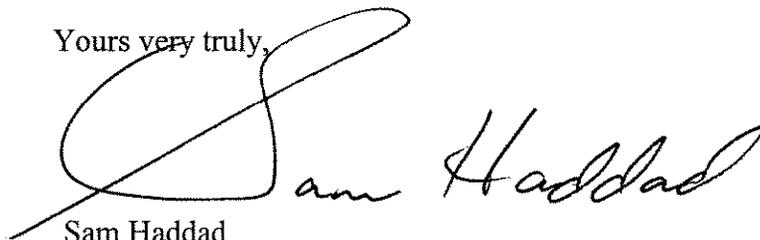
You assert that the information at issue was prepared by an attorney representing the state and that it reflects the mental impressions or legal reasoning of an attorney representing the state. Thus, section 552.108(a)(3) is applicable to the documents at issue. Since you have shown the applicability of section 552.108 to the records at issue, you may withhold the information.

We note, however, section 552.108(c) provides that basic information about an offense may not be withheld from disclosure under section 552.108. Front page offense and arrest report information, which are generally public, constitute this type of basic information about the offense and thus must be disclosed. *See generally 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). However, you contend that “[t]he front page of each offense report, taken together, constitute 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 district attorney’s office must withhold the front page offense report information from disclosure under section 552.101 of the Government Code in conjunction with the common-law right to privacy.<sup>2</sup>

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 any questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 112830

Enclosures: Submitted documents

cc: Mr. Bill Robins, III  
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(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.”

<sup>3</sup>As we address the issues in the instant matter under sections 552.101 and 552.108(a)(3), we do not address the other exception you raise at this time.