



Office of the Attorney General
State of Texas

June 4, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Charles L. Kessie
County Attorney
Hemphill County
209 Main Street
Canadian, Texas 79014

OR98-1399

Dear Mr. Kessie:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 115959.

The Hemphill County Sheriff's Office (the "county") received a request for "[a]ny incident reports related to the shooting death of Bryan Rupprecht, which occurred March 19, 1998, at Main in Canadian." In response to the request, you submit to this office for review the records which you assert are responsive.¹ You assert that the information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.108, the "law enforcement exception," provides in relevant part 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:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(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;

¹You have also submitted to this office information that apparently was sent for informational purposes only. In this ruling, we do not address the public disclosure of that information.

....

(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.

Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You assert that "the incident report contains information that did not result in conviction or deferred adjudication." Consequently, based on your representations, we find that you have shown the applicability of section 552.108(a)(2) for most of the information at issue.

We note, however, that certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally Houston Chronicle*, 531 S.W.2d at 177; Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report.² Although section 552.108(a)(2) authorizes you to withhold the remaining information from disclosure, you 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.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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²For your convenience, we have enclosed a list of the types of information deemed public by *Houston Chronicle*. Open Records Decision No. 127 (1976).

Ref.: ID# 115959

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)

cc: Mr. David Stevens, Regional Director
Amarillo Globe-News
P.O. Box 2091
Amarillo, Texas 79166
(w/o enclosures)