



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR96-1055

Dear Mr. Pigott:

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# 39869.

The Texas Department of Public Safety (the "department") received an open records request for a copy of any "police report, inquest record, autopsy report, death record or certificate, and any and all available information" concerning the death of the requestor's son, who died while in custody of the Falfurrias Police Department. You state that the only records that the department currently holds that is responsive to the request is a single "Report of Investigation," without attachments.¹ You contend the report is excepted from required public disclosure under section 552.108 of the Government Code.

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*, No. 95-1251, 1996 WL 325601 (Tex. June 14, 1996). We note, however, that information normally found on

¹You explain that all remaining department records concerning the custodial death have been forwarded to the Brooks County District Attorney, who intends to present the records to the Brooks County grand jury. The Open Records Act does not require a governmental body to obtain information not in its possession or to prepare new information in response to a requestor. Open Records Decision No. 445 (1986). Consequently, this ruling does not address responsive records held only by the Brooks County Attorney at this time.

the front page of an offense report is generally considered public.² *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). We therefore conclude that, except for front page offense report information, the department may withhold the "Report of Investigation" pursuant to section 552.108.

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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 39869

Enclosures: Submitted documents

cc: Mr. Tomas DeLeon
321 South Kathrine Street
Casa Grande, Arizona 85222
(w/o enclosures)

²The 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 held to be public in *Houston Chronicle*.