



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 19, 1996

Mr. Scott A. Durfee  
General Counsel  
Office of the District Attorney  
Harris County  
201 Fannin, Suite 200  
Houston, Texas 77002-1901

OR96-1192

Dear Mr. Durfee:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 31624.

The Harris County District Attorney (the "district attorney") received a request for a copy of a videotape taken by the Houston Police Department regarding Mr. Allen George Romine. You claim that the requested information is excepted from disclosure by sections 552.101, 552.103, 552.108, and 552.119 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*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.<sup>1</sup> *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 conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested videotape from required public disclosure.

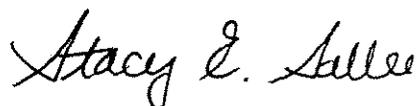
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<sup>1</sup>The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

As first page offense report information may be intertwined with photographs of police officers on the submitted videotape, we address whether the photographs of the police officers are excepted under section 552.119 of the Government Code. Section 552.119 of the Government Code prohibits the release of a photograph that depicts a peace officer as defined by article 2.12 of the Code of Criminal Procedure except in certain circumstances. The submitted videotape depicts peace officers. If the district attorney has the technological capability to electronically obscure the images of the peace officers or other capabilities of redacting the images of the peace officers, the district attorney should ensure that the peace officers are not recognizable before releasing first page offense report information. If the district attorney cannot obscure the images of the peace officers, as this information is inextricably intertwined with public information, we conclude that the district attorney need not release first page offense report information in this instance. See *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).

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,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/rho

Ref.: ID# 31624

Enclosure: Submitted videotape

cc: Mr. Larry W. Harrison  
Lisa Nix - DWI Video Services  
1200 Smith Street, Suite 1750  
Houston, Texas 77002  
(w/o enclosure)