



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 26, 1996

Mr. Richard O. Burst  
Assistant County Attorney  
Cameron County District Attorney  
974 Harrison Street  
Brownsville, Texas 78520

OR96-1280

Dear Mr. Burst:

You ask that this office reconsider its ruling in Open Records Letter No. 96-0796 (1996) ("OR96-0796") that certain records held by your office are subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. OR96-0796 is hereby withdrawn and replaced with this ruling.

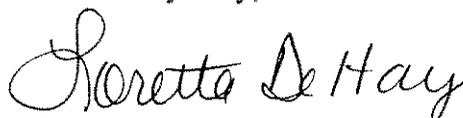
You originally contended that the information at issue comes under the protection of the "litigation" exception, section 552.103 of the Government Code. In OR96-0796, this office concluded that section 552.103 was inapplicable. However, in a supplement to your request for reconsideration you raised for the first time the "law-enforcement" exception, section 552.108 of the Government Code. Although this office will not usually consider the applicability of an exception that is not raised within the initial ten days following receipt of an open records request, in this instance we will consider section 552.108 in light of the Texas Supreme Court's recent decision in *Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996).

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, supra*. Because the records at issue clearly come within the purview of section 552.108, we conclude that most of the information at issue may be withheld under this section.

We note, however, that information normally found on the front page of an offense report is generally considered public. *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). Thus, you must release from the "Report of Investigation" and the "Record of Arrest" the types of information that are considered to be "front page offense report information," regardless of where this information is actually located in those records. Although section 552.108 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 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# 100212  
Open Records Decision No. 96-0796 (1996)

Enclosures: Submitted documents

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(w/o enclosures)