



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1996

Mr. Patrick S. Dohoney
Assistant District Attorney
Tarrant County
Office of the Criminal District Attorney
401 West Belknap
Fort Worth, Texas 76196-0201

OR96-1289

Dear Mr. Dohoney:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 34740.

The Tarrant County Sheriff's Department (the "sheriff") received a request for information regarding the death of Anthony Manning. You claim that the request is overbroad. You also claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claimed and have reviewed the documents at issue.

Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of

information available so that he may properly narrow his request.
Open Records Decision No. 31 (1974).

In response to the request at issue here, the sheriff must make a good-faith effort to relate the request to information in the sheriff's possession and must help the requestor to clarify his request by advising him of the types of information available. We note that if a request for information is unclear, a governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b); *see* Open Records Decision No. 561 (1990) at 8.

However, a request for records made pursuant to chapter 552 of the Government Code may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975). Therefore, we address your claimed exceptions to disclosure.

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.¹ *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, section 552.108 of the Government Code excepts most of the requested records from required public disclosure. We note that there are documents within those submitted to this office for review that are copies of documents filed with the district clerk. We believe that the sheriff has waived any section 552.108 claim with regard to those documents.

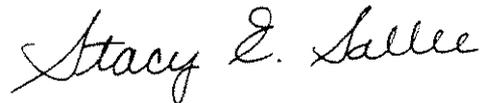
In Open Records Decision No. 597 (1991), we held that section 552.103 does not except from disclosure first page offense report information once a defendant has been charged. The reason for this is that the first page offense report information will have been disclosed to the defendant by the magistrate and section 552.103 does not except from disclosure information that the opposing party in litigation has seen or had access to. Open Records Decision Nos. 349 (1982), 320 (1982). Here, we cannot ascertain whether a suspect has been charged. If the suspect has been arrested and charged, the sheriff may not withhold first page offense report information under section 552.103. If a suspect has

¹The 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*.

not been arrested and charged, the sheriff may withhold this information under section 552.103.²

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/ch

Ref.: ID# 34740

Enclosures: Submitted documents

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(w/o enclosures)

²Similarly, section 552.103 will not except from required public disclosure those copies of pleadings and other documents that have been filed with the district clerk and have become part of the public record.