



Office of the Attorney General

State of Texas

September 16, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. Patrick S. Dohoney
Assistant District Attorney
Tarrant County
Justice Center
401 W. Belknap
Fort Worth, Texas 76196-0201

OR96-1667

Dear Mr. Dohoney:

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# 100793.

Tarrant County (the "county") received a request for any information the Tarrant County Sheriff's Office has concerning 1) the murder of Deputy Clark Rosenbalin and 2) a list of fifteen criminal offenses with which two named individuals were charged. Because the requestor is an attorney who is representing an inmate of the Texas Department of Criminal Justice, you contend that the county need not respond to the request pursuant to section 552.027 of the Government Code. In the alternative, you claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You have identified the information in the county's possession that is responsive to the request and submitted it to this office for review.

Section 552.027 of the Government Code provides:

(a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by a governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by

Section 1.07(a), Penal Code.¹

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, § 1)(footnote added).

By enacting section 552.027, the legislature intended to prevent inmates from using information obtained through the Open Records Act "to file bogus income tax returns on correctional officers, harass nurses at their home addresses, and send mail to the homes of Texas Department of Criminal Justice employees." Tex. Sen. Criminal Justice Comm., Bill Analysis, Tex. H.B. 949, 74th Leg., R.S. (1995)(quoting from "Background")(available through the Senate Research Center). After careful consideration and given the stated purpose of section 552.027, we do not believe that the legislature intended to prevent an attorney, who is subject to rules of professional responsibility, from requesting information on behalf of an inmate whom he is representing. Accordingly, we conclude that section 552.027 does not relieve a governmental body of its obligation to accept and comply with an open records request from an attorney who is making such a request on behalf of an inmate whom he is representing. Therefore, we must consider whether the requested information falls within the scope of the exceptions to disclosure that you have raised.

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*, 924 S.W.2d 920 (Tex. 1996). 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 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. Section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code

¹Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

(A) a municipal or county jail;

(B) a confinement facility operated by the Texas Department of Criminal Justice;

(C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and

(D) a community corrections facility operated by a community supervision and corrections department.

§ 552.007.²

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 100793

Enclosures: Submitted documents

cc: Mr. Maurie A. Levin
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(w/o enclosures)

²Section 552.103 generally may not be invoked to except front page offense report information from disclosure. *See* Open Records Decision No. 597 (1991). As we have concluded that you may withhold all but front page offense report information from disclosure pursuant to section 552.108, we do not address your section 552.103 claim.