



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 10, 1996

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

OR96-1853

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101687.

The Texas Department of Public Safety (the "department") received a request for information pertaining to the department's investigation of a motor vehicle accident on June 26, 1996. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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.<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 therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure. On the other hand, you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

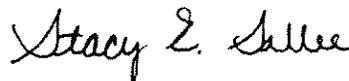
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<sup>1</sup>The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the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

We now address whether the department may withhold first page offense report information under section 552.103. In Open Records Decision No. 597 (1991), this office concluded that, although 552.103(a) may except first-page offense report information in some circumstances, after the magistrate informs the suspect of the nature of the charge against him, there is no first page information that would not have been made known to him by the magistrate. Open Records Decision No. 597 (1991) at 3. Here, the suspect was issued tickets at the scene of the accident, which tickets informed him of the basic details of the alleged offenses. This is the information typically found on the first page of an offense report. When the opposing party in the pending litigation has seen or had access to any of the information at issue, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). Therefore, we conclude that section 552.103(a) does not in this instance except the information that generally appears on the first page of an offense report from required public disclosure.<sup>2</sup>

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 101687

Enclosures: Submitted documents

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<sup>2</sup>You claim that section 552.101 excepts from disclosure information "prepared solely for the use of the Department's attorney in evaluating its potential exposure as the result of an accident which involved one of its vehicles." We note that section 552.107 of the Government Code is the proper exception for this type of information. However, as we have concluded that the department may withhold all of the requested information except for first page offense report information under section 552.108, and as we do not believe that either section 552.101 or section 552.107 will except first page offense report information from required public disclosure, we conclude that the department must release first page offense report information.

cc: Mr. Paul W. Klinger, Jr.  
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(w/o enclosures)