



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 24, 1996

Mr. Harold Willard
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR96-1924

Dear Mr. Willard:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (the "Act"). Your request was assigned ID#37237.

The Lubbock Police Department (the "department") has received a request for documents which are a part of a crime report on a particular individual. The request was made by the Texas Education Agency ("TEA") as part of their criminal background investigation of the individual who has applied for licensure as an education professional in Texas. You included a complete copy of the requested file which was attached as "Exhibit C." This file contains the crime report of the incident in question, the suspect's mugshot and fingerprints, and the card filled out by the department to identify the suspect after the arrest.

You state your opinion that, pursuant to *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), the department need only release the first page of the crime report, with any identification and description of witnesses redacted. You further cite Open Records Decisions No. 127 (1976) and No. 408 (1984) as authority for the withholding of mugshots and fingerprints. On the basis of these decisions, you have released the front page of the crime report with the names and identifying information of witnesses redacted, as well as a copy of the identification card made when the suspect was arrested, (collectively, "Exhibit B"). You have withheld, however, the mugshot, fingerprints, and pages 2 and 3 of the crime report.

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

As noted, however, information normally found on the front page of an offense report is generally considered public. See *Houston Chronicle*; Open Records Decision No. 127 (1976). Thus, as you are aware, the department must release the 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. It appears the department appropriately released some of the front page information. However, with the exception of the individual's fingerprints and mugshot, the department must release the remainder of the information in Exhibit C, as it is also front page offense report information.¹

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 37237

Enclosures: Submitted Documents

cc: Jack W. Stamps, Investigator
Division of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin TX 78701-1494
(w/o enclosures)

¹ We note, however, the interagency transfer of information is not considered "public disclosure". Open Records Decision Nos. 567 (1990), 561 (1990), 516 (1989). Therefore, the department may choose to provide the requested information to TEA without waiving the applicability of section 552.108 to future requests.