



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1996

Mr. Scott A. Durfee
General Counsel
Harris County District Attorney
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR96-2107

Dear Mr. Durfee:

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# 102275.

The Harris County District Attorney's office (the "district attorney") received a request to inspect, duplicate or both the district attorney's files along with specific items from the district attorney's files for *The State of Texas v. Robert F. Crunk aka Robert T. Hinds*, Cause Nos. 603172 and 602173. However, the district attorney seeks to withhold the requested information based on sections 552.101, 552.103, 552.107, and 552.108 of the Government Code. You enclosed representative samples of the information the department seeks to withhold.¹

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 (1996). You have submitted portions of the file which reveal information held by the district attorney that deals with the prosecution of a crime as well as information which constitutes the internal records and

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

notations of the police and the district attorney's office relating to the prosecution of the specified causes. We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally 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). Accordingly, you must release the type of information that is considered to be front page offense report information, regardless where it appears in the documents. 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.² Gov't Code § 552.007. As we have addressed the exceptions under section 552.108 we need not consider the other exceptions you have raised at this time.

We are resolving this matter with this 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 may 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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/rho

Ref.: ID# 102275

Enclosures: Submitted documents

cc: Ms. Janet M. Olsen
P.O. Box 60284
Fairbanks, Alaska 99706
(w/o enclosures)

²We note the presence of information which also triggers exceptions under 552.101 of the Government Code as information otherwise privileged through specific statutes, e.g., grand jury records, which are held by the District Attorney's office, but which are in the grand jury's constructive possession, are not subject to the Texas Open Records Act. Open Records Decision Nos. 513 (1988), 411 (1984); TCIC/NCIC computerized criminal history information ("CHRI") is confidential by law. *See* 28 C.F.R. § 20.21(c)(1); information provided by the district attorney to the Texas Department of Criminal Justice for use in awarding paroles may not be released, Tex.Code Crim.Proc.art.42.18; and access to medical records is governed by the Medical Practice Act, art. 4495b § 5.08, V.T.C.S. Open Records Decision No. 565 (1990).