



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1997

Ms. Elaine S. Hengen
Assistant City Attorney
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR97-0649

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104735.

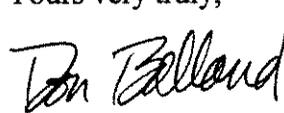
The El Paso Police Department received a request for information contained in case file number 94-331297 including any reports, statements, and autopsy reports. You explain that you do not possess any autopsy reports and have directed the requestor to the county medical examiner. You also state that you have released a copy of the incident report to the requestor. You claim, however, that the remaining information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

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 Publ'g 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. See *Houston Chronicle*, 531 S.W.2d at 187; see also Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The documents at issue deal with the detection, investigation, or prosecution of crime. 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, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.¹

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 104735

Enclosures: Submitted documents

cc: Mr. Rene Romo
Albuquerque Journal
P.O. Drawer J-T
Albuquerque, New Mexico 87103
(w/o enclosures)

¹Because we are able to make a determination under section 552.108, we need not address your argument under section 552.101. We note, nonetheless, that an arrestee's social security number is generally considered public. You assert, however, that the Privacy Act of 1974, 5 U.S.C. § 552a, may deem certain social security numbers confidential. Specifically, you are concerned that because the department has not represented that the social security numbers are subject to public disclosure under the Open Records Act, section 7(b) of the Privacy Act, which requires the department to notify a person of the uses to be made of his social security number, makes the arrestees' social security numbers confidential. You also state that because the social security numbers are not maintained by the city pursuant to any provision of law enacted on or after October 1, 1990, the numbers are not confidential under section 405(c)(2)(vii) of title 42 of the United States Code. You suggest that the public release of the social security numbers will violate the Privacy Act of 1974, section 552a of title 5 of the United States Code. Section 7(b) of the Privacy Act requires the department to inform an individual whose social security number it obtains of the statutory or other authority by which such number is obtained, and what uses will be made of the number. 5 U.S.S. § 552a note; *see generally* Attorney General Opinion DM-286 (1994). However, the Privacy Act does not restrict the disclosure of a social security number under the Open Records Act. Open Records Decision No. 622 (1994) at 2.