



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 6, 1997

Mr. Barry R. Werner
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-1310

Dear Mr. Werner:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 106354.

The City of Dallas Police Department (the "department"), which your office represents, received a request for a variety of information concerning the investigation of the fatal shooting of an individual, referenced by the name of the victim and the incident date. Specifically, the requestor, apparently serving as the court-appointed investigator for the defendant, seeks the autopsy report, autopsy photos, crime scene photos and the police report. In response to the request, you submitted to this office for review a representative sample of the responsive records.¹ You assert that the information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submissions at issue.

Initially, we note that since autopsy reports are expressly made public under section 11, article 49.25 of the Code of Criminal Procedure, an autopsy report may not be withheld from disclosure. *See* Open Records Decision No. 529 (1989). Therefore, we assume that a copy of the autopsy report will be released to the requestor.²

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). 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.

²In this instance, since the requestor seeks both autopsy and crime scene photographs, we must note that the photographs which are part of the autopsy report are also made public by the Code of Criminal Procedure. Code Crim. Proc. art. 49.25, § 11. However, as for any photographs which are part of the police investigation of the crime scene, please refer to our section 552.108 discussion set out *infra*.

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). You assert that the requested information relates to police investigation or prosecution of criminal allegations. Since the submitted record at issue comes within the purview of section 552.108, we conclude that most of the information may be withheld under this section.

We note, however, that information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public.³ *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). Therefore, except for front page offense report information, section 552.108 of the Government Code excepts the requested record from required public disclosure. Although section 552.108 authorizes the department to withhold the remaining information from disclosure, the department may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov’t Code § 552.007.

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,



Sam Haddad
Assistant Attorney General
Open Records Division

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Ref.: ID# 106354

³The 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*. For your convenience, we have attached a list of these types of information.

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)

cc: Mr. Vince Romo
Vince Romo Investigations, Inc.
519 Interstate 30, Suite 157
Rockwall, Texas 75087
(w/ Summary of Open Records Decision No. 127 (1976))

