



Office of the Attorney General  
State of Texas

June 12, 1997

DAN MORALES  
ATTORNEY GENERAL

The Honorable John Julian Moore  
Colorado County Attorney  
2nd Floor, West  
County Courthouse  
Columbus, Texas 78934

OR97-1371

Dear Mr. Moore:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106356.

Colorado County received a request for all records concerning a named individual. You claim that the requested information is excepted from required public disclosure by sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Initially, we note that the information contains some medical records. The Medical Practice Act (the "MPA"), article 4495b of Vernon's Texas Civil Statutes, protects from disclosure "[r]ecords of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician." V.T.C.S. art. 4495b, § 5.08(b). The documents submitted to this office include medical records access to which is governed by provisions outside the Open Records Act. Open Records Decision No. 598 (1991). The MPA provides for both confidentiality of medical records and certain statutory access requirements. *Id.* at 2. We have marked the medical records submitted to this office for review that may only be released as provided by the MPA.

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; *cf.* Open Records Decision No. 597 (1991) (basic information in an offense report generally may not be withheld under section 552.103); *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 and medical records which may only be released as provided by the MPA, 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.<sup>1</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 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# 106356

Enclosures: Submitted documents

Mr. Steve Waldman  
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(w/o enclosures)

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<sup>1</sup>Because we are able to make a determination under section 552.108, we do not address your argument under section 552.103. We note that if in the future you assert that section 552.103(a) is applicable on the basis of a notice of claim letter, you should affirmatively represent to this office that the letter complies with the requirements of the TTCA. Under Open Records Decision No. 638 (1996), a governmental body may establish that litigation is reasonably anticipated by showing that (1) it has received a claim letter from an allegedly injured party or his attorney and (2) stating that the letter complies with the notice of claim provisions of the Texas Tort Claims Act ("TTCA") or applicable municipal statute or ordinance.