



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 10, 1998

Mr. Jason C. Marshall
Attorney at Law
500 North Akard-#1800
Dallas, Texas 75201

OR98-2157

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117902.

The City of Coppel Police Department received a request for the police reports "pertaining to a road rage incident on 11-15-97," specifically report number 97-051785. You indicate that two reports concerning the single incident are responsive to the request. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we point out that among the submitted materials are medical records pertaining to the requestor. Access to certain Emergency Medical Services records is governed by the provisions of section 773.091 of the Health and Safety Code. Open Records Decision No. 598 (1991). Further, release of some of the material may be covered by the Medical Practices Act ("MPA"). V.T.C.S. art. 4495b, § 5.08(b). Access to these medical records are 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. The medical records submitted to this office for review may only be released as provided by the MPA or section 773.091 of the Health and Safety Code. Both statutes provide for the release of a person's own patient records. V.T.C.S. art. 4495b, § 5.08(h)(5); Health & Safety Code § 773.092(4).

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

* * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why section 552.108 applies. *See* Gov't Code §§ 552.108(a), (b), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the two requested reports relate to concluded criminal investigations and prosecutions. You explain that "these two assault complaints were each 'no-billed' by a grand jury in Dallas County." You have shown the applicability of section 552.108(a)(2). Thus, we conclude that the requested information may be withheld.

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. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). In addition, 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.

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/nc

Ref: ID# 117902

Enclosures: Submitted documents

cc: Mr. Merle Bush
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(w/o enclosures)