



November 29, 1999

Mr. Duncan Fox  
Assistant Chief  
Legal Services  
Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR99-3410

Dear Mr. Fox:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the “act”), chapter 552 of the Government Code. Your request was assigned ID# 129677.

The Texas Department of Public Safety (the “department”) received a request for “any and all files, records, documents, reports, analyses, hair, fluid, or tissue samples, and any other written or recorded material related to your investigation of the death and/or alleged poisoning of Scott Griffin in Big Spring, Texas.” In response to the request, you submit to this office for review a representative sample of the information which you assert is responsive.<sup>1</sup> You claim that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

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<sup>1</sup>We 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.

Section 552.108 of the Government Code, “the law enforcement exception,” 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 [required public disclosure] if:

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

....

(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. You raise section 552.108(a)(1) since the investigation by the Texas Rangers “is still ongoing at this time,” and “release of the requested information would interfere with law enforcement.” As the requested information relates to a pending criminal investigation or prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Accordingly, we conclude that the department may withhold most of the requested information from the requestor based on section 552.108(a)(1).

However, we note that certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov’t Code § 552.108(c). Basic information is 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. *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 basic information normally found on the front page of an offense report, you may withhold the remaining information from disclosure pursuant to section 552.108. You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law.<sup>2</sup> Gov’t Code § 552.007.

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<sup>2</sup>Although we did not observe medical records within the submitted documents, we note that access to any responsive medical records is governed by the Medical Practice Act (the “MPA”), article 4495b of Vernon’s Texas Civil Statutes. Medical records are confidential with access provided only as outlined under the MPA. Open Records Decision No. 598 (1991).

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.

Sincerely,

  
Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/nc

Ref.: ID# 129677

Encl. Submitted documents

cc: Mr. Clint Brown  
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(w/o enclosures)