



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 15, 1994

Mr. Charles Karakashian, Jr.
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR94-362

Dear Mr. Karakashian:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 25010.

The Texas Department of Public Safety (the "department") has received a request for "all records [the department has] concerning the event known as Mardi Gras on Galveston Island, Texas." The requestor said he was "mainly interested in problems on the day of the main parade, February 12, 1994." You seek to withhold portions of the requested information under section 552.108 of the Government Code.

Section 552.108 provides:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

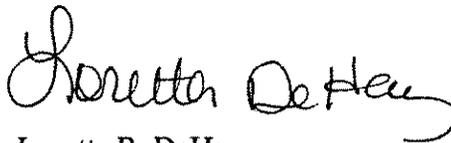
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

Whether section 552.108 applies to specific information depends on whether its release would "unduly interfere" with law enforcement or prosecution. *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977); Open Records Decision Nos. 518 (1989) at 6; 434 (1986) at 2. The governmental body asserting this exception has the burden of explaining, if the

information does not supply the explanation on its face, how the release of the information would unduly interfere with law enforcement. Open Records Decision No. 518 at 2. In this case, you argue that release of the portions of the memos "which deal with the number of officers assigned and [their] duties" would give "advance notice of how the department deploys its troopers during such events." Therefore, you argue that individuals armed with such advance notice would be able to tailor their criminal actions to avoid apprehension by law enforcement officers. We agree that you may withhold some of the information on this basis. However, a portion of the information you wish to withhold contained in the memoranda dated February 23, 1994, and March 2, 1994, has been previously released to the media. In addition, we do not believe that release of the total number of troopers deployed would unduly interfere with law enforcement. Finally, you have not explained how release of the information contained in the memo dated January 24, 1994, would unduly interfere with law enforcement. We have marked the information that you may withhold under section 552.108. The remaining information must be disclosed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/WMW/mc

Ref.: ID# 25010

Enclosures: Marked documents

cc: Mr. Jim Mabe
3114 Sea Wall Boulevard
Galveston, Texas 77550
(w/o enclosures)