



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 18, 1994

Ms. Ann Diamond  
Assistant District Attorney  
Tarrant County  
Justice Center  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR94-377

Dear Ms. Diamond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 22574.

The Tarrant County Sheriff's Department (the "county") has received an open records request for information relating to the mental health detention of the requesting party. The responsive documents include the officer's application for detention under Health and Safety Code section 573.002 and the witnesses' supporting statements. The county has submitted these documents for our review and contends that they are excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.

Section 552.108 provides that:

(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].

Traditionally, when applying section 552.108, our office distinguishes between cases that are still under active investigation and those that are closed. In cases that are still under active investigation, section 552.108(a) excepts from disclosure all information except

that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing 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). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-466 (1982); Open Records Decision Nos. 444, 434 (1986).

In this case, the county argues that, based on past experience and history, the circumstances and behavior giving rise to the detention of the requestor will in all likelihood continue. Although the requestor is no longer being detained on the basis of the requested information, the county states that the release of the requested information will serve to aggravate the situation and result in continued harassment and intimidation of the witnesses providing statements.

We have examined the information you submitted for review and conclude that you may withhold the identities of the individuals who gave statements and the statements themselves. The information shows that, given the circumstances, the release of this information would interfere with law enforcement or crime prevention by the county. On the other hand, you have not established that releasing the "Application for Detention" with the identities of the witnesses redacted would unduly interfere with law enforcement. Therefore, you may withhold only the marked portion of the "Application for Detention" under section 552.108.

We also conclude that neither section 552.101 or section 552.103 except the "Application for Detention" from required public disclosure. Although you claim that both of these exceptions except the requested information from disclosure, your argument goes solely to your section 552.108 claim. Furthermore, none of the documents you submitted explain how either of these exceptions might apply, and we are not aware how they might apply. Therefore, you must release the "Application for Detention" with the marked portion redacted.

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 our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

Ref.: ID# 22574

Enclosures: Marked documents

cc: Ms. Terry H. Roden  
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(w/o enclosures)