



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1995

Mr. Robert J. Young
District Legal Counsel
Dallas County Community College District
701 Elm Street, Room 400
Dallas, Texas 75202-3299

OR95-989

Dear Mr. Young:

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# 32829.

The Dallas County Community College District (the "district") received a request for "all files, reports or investigations relating to . . . Joseph Keylon," including "any reports received from outside sources that conducted chemical tests on or about the premises at North Lake college that arose out of allegations or investigations into the conduct of Joseph Keylon." You state that the district will release most of the requested information, but claim that a portion of the requested information is excepted from disclosure under section 552.108 of the Government Code. You have submitted samples of the documents you claim are excepted from disclosure.¹ We have considered the exception you claimed and have reviewed the sample documents.

Section 552.108(a) excepts from disclosure records of law enforcement agencies or prosecutors that deal with criminal investigations and prosecutions. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2.

¹In reaching our conclusion here, 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.

In cases that are still under active investigation, section 552.108 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-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

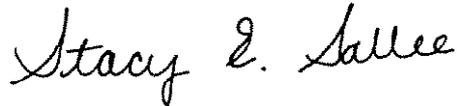
The documents submitted to this office consist primarily of records of the North Lake College Police Department. You state that the incident resulting in the creation of these documents has been reported to the appropriate authorities. However, you do not state whether the case remains open or whether it has been closed. If the case is open, then the district may withhold all of the submitted information with the exception of information that would typically appear on the first page of an offense report. Although this information is generally found on the first page of an offense report, its location is not determinative. To determine what information must be released, the type of information must be examined rather than its location. *See Open Records Decision No. 127 (1976) at 5.* We enclose a copy of Open Records Decision No. 127 (1976) for your information.²

If the case is closed, you claim that there are three reasons for withholding the requested information: (1) the witnesses were promised confidentiality; (2) the witnesses may be intimidated or harassed; and (3) disclosure of the requested information could harm future cooperation between witnesses and the college police. First, governmental bodies may not enter into agreements to keep information confidential except where specifically authorized to do so by statute. Open Records Decision Nos. 444 (1986), 437 (1986), 425 (1985); *see Open Records Decision No. 180 (1977)* (information not excepted from disclosure because furnished with expectation that will be kept confidential). This office has previously held that the names of witnesses in closed cases may be withheld under certain circumstances. Open Records Decision No. 297 (1981). We do not believe that in this case the district has demonstrated that the witnesses in this case are likely to be intimidated or harassed. Similarly, with regard to the information submitted to this office for review, we do not believe that a showing can be made that its release at this time would be reasonably likely to "unduly interfere with law enforcement and crime prevention," nor have you made such a showing. *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 372 (1983). We conclude that, if the case is closed, the information submitted to this office for review is not excepted from disclosure by section 552.108.

²We assume that the district will contact Texas Natural Resource Conservation Commission to ascertain the status of the case.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 32829

Enclosures: Open Records Decision No. 127 (1976)
Submitted documents

cc: Mr. Marshall Medlin
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(w/o enclosures)