



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 21, 1996

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Legal Affairs Division  
Texas Department of Criminal Justice  
P.O. Box 99  
Huntsville, Texas 77342-0099

OR96-0753

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40219.

The Texas Department of Criminal Justice (the "department") received a request for "all documents, files and statements concerning investigations of Katina Hall and [sic] alleged relationship with inmate Gay, Todd." You have submitted to this office for review the statements made to the department about the alleged relationship. You believe that these statements are excepted from public disclosure under sections 552.101 and 552.108 of the Government Code.<sup>1</sup>

Section 552.108(b) excepts from disclosure "[a]n 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 . . . ." This section excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 531 (1989) at 2 (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex.

---

<sup>1</sup>Although you initially contended that some of the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code, you have not offered any arguments as to why these exceptions might apply to the information at issue. Because you have not met your burden of establishing that these exceptions apply to the information, the department cannot withhold any of the requested information pursuant to sections 552.103 or 552.107 of the Government Code. Gov't Code §§ 552.301, .302, .303.

1977)). When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3.

You argue that the individuals who made statements to the department will be subject to harassment and retaliation if their identities are known, and you alert us to the specific dangers that these individuals would encounter in this case. You have demonstrated that releasing the statements would unduly interfere with law enforcement and crime prevention. Accordingly, the department may withhold the statements from required public disclosure under section 552.108 of the Government Code.

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,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref.: ID# 40219

Enclosures: Marked documents

cc: Mr. Marty Turner  
Field Representative  
AFSCME  
1717 Butternut  
Abilene, Texas 79602  
(w/o enclosures)