



Office of the Attorney General
State of Texas

August 23, 1996

DAN MORALES
ATTORNEY GENERAL

Ms. Judith Doran
Open Records Coordinator
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

OR96-1527

Dear Ms. Doran:

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# 100279.

The Texas Parks and Wildlife Department (the "department") received an open records request for, among other things, "any and all information pertaining to the Lake Livingston State Park concession contract that was recently awarded to Tom Mainer III, including any and all memos, correspondences [sic] and notes taken before, during and after our interview on February 14, 1996."¹ You state that the department has released to the requestor all documents held by the department coming within the ambit of the request except for two categories of records, the release of which you contend would unduly interfere with an ongoing internal affairs investigation. You have submitted to this office as responsive to the request an internal memorandum that outlines an investigation strategy being employed by one of the department's investigators and computer printouts containing general personnel information about certain department employees "who may be witnesses or possible targets of this investigation." You seek to withhold these documents pursuant to the "law-enforcement" exception, section 552.108 of the Government Code.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation,

¹The requestor also seeks the department's procedure for its concessionaire selection process and the recent contract between the department and the individual that was chosen for the Lake Livingston State Park Concession. Because you have not argued that these documents are excepted from required public disclosure, we assume the department has made these documents available to the requestor.

or prosecution of crime,” and “[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.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Because you explain that any criminal activity that the department uncovers during its investigation will be referred to the Travis County District Attorney’s Office, we agree that the records you have submitted to this office come within the purview of section 552.108, and therefore may be withheld at this time. Although section 552.108 authorizes the department to withhold these records, the department may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov’t Code § 552.007.

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/RWP/rho

Ref.: ID# 100279

Enclosures: Submitted documents

cc: Mr. Caesar “Sonny” Gonzales
612 W. North
Livingston, Texas 77351
(w/o enclosures)