



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 29, 1996

Mr. Robert L. Dillard, III  
Nichols, Jackson, Dillard, Hager  
& Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR96-1963

Dear Mr. Dillard:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101448.

The City of Celina (the "city"), which you represent, received an open records request for "[c]opies of original Celina Police Department memoranda from July 1994, August 1994 and November 1994 in which it was suggested that Celina Police Officers issue a recommended number of citations per shift," "a [c]opy of the original meeting notice, agenda and any tape recorded minutes of the proceedings held on or about December 21, 1994, in which the above noted memoranda were discussed, including the action taken at the conclusion," and "the names of all those present at this meeting." You assert that the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

You have submitted to this office the documents held by the city which you feel are responsive to this request. Initially, you state that "[n]o record exists of any such meeting on December 21, 1994, or the names of those present at such meeting or any other meeting, which would be responsive to this request." The Open Records Act "does not embrace information not in existence when a request is submitted to a governmental body." Open Records Decision No. 476 (1987). Moreover, the city is not required to create new information in response to a request. Open Records Decision No. 561 (1990). As the city does not have any records responsive to this portion of the request, you need not respond further to this portion of the request.

Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, 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). We agree that section 552.108 of the Government Code excepts the requested records from required public disclosure. On the other hand, you may choose to release all or part of the information that is not otherwise confidential by law. 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 may 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,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 101488

Enclosures: Submitted documents

cc: Mr. Dave Lewis  
The Celina Record  
P.O. Box 308  
Celina, Texas 75009  
(w/o enclosures)