



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1997

Mr. Mitchell S. Milby
Assistant City Attorney
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-0368

Dear Mr. Milby:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103865.

The City of Dallas (the "city") received a request for copies of the Internal Affairs Division ("IAD") investigation file, arrest report, and offense report relating to an incident that occurred on May 4, 1996. You make no objection to releasing the arrest and offense reports. Therefore, we assume that you have provided the requestor with copies of these reports. As for the IAD file, you claim that this information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

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, 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). You state that the IAD file is maintained by the Dallas Police Department for its internal use and claim that it is, therefore, excepted from disclosure under section 552.108(b). We note, however, that where no criminal investigation or prosecution results from an investigation of a police officer for alleged misconduct, section 552.108 is inapplicable. See *Morales v. Ellen*, 840 S.W.2d 519 (Tex. Civ. App.--El Paso 1992, writ denied); Open Records Decision No. 350 (1982). Here, the IAD investigated the conduct of two police officers during a disorderly conduct arrest. However, the IAD investigation apparently has not led to a criminal investigation or prosecution of the officers. Thus, we conclude that the IAD investigation file is not excepted from disclosure under section 552.108 of the Government Code. *But see* Open Records Decision No. 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108).

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 103865

Enclosures: Submitted documents

cc: Mr. Orvrl E. Pugh
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(w/o enclosures)