



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1997

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR97-0652

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104793.

The Texas Department of Public Safety (the "department") received a request for variety of information regarding Martin Luther King, Jr., the Southern Christian Leadership Conference, and Carlos Marcello during specified time periods. You contend that the department "has researched its files and determined that other than newspaper articles, it has no records responsive to [the requestor's request] for information pertaining to Martin Luther King and/or the Southern Christian Leadership Conference."¹ As for the other requested information, you assert that the department has located certain responsive records. The department agrees to release the newspaper articles, which are responsive to the request. However, you seek to withhold the remaining responsive records pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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."

¹We note that chapter 552 does not apply to information that does not exist, *see* Open Records Decision No. 555 (1990), nor does chapter 552 require governmental bodies to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio, 1978, writ dismissed). We assume that you have advised the requestor if certain information does not exist.

Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We agree that the submitted records are internal records of a law enforcement agency. Since the submitted records come within the purview of section 552.108, we conclude that the information at issue may be withheld under this section.

We are resolving this matter with an informal letter ruling rather than with a published open records decision.² This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 104793

Enclosures: Submitted documents

cc: Mr. Ed Wendt
Houston Forward Times
P.O. Box 8346
Houston, Texas 77004
(w/o enclosures)

²In reaching our conclusion, 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). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.