



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 28, 1997

Mr. Hugh W. Davis Jr.  
Assistant City Attorney  
Office of the City Attorney  
1000 Throckmorton Street  
Fort Worth, Texas 77553

OR97-1717

Dear Mr. Davis:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107541.

The City of Fort Worth (the "city") received two requests for copies of all personnel documents pertaining to a particular non-civil service employee who has applied for a position as police officer with the Fort Worth Police Department. As you have submitted the same information in response to these requests, we have combined these two requests into one ruling with the aforementioned file number. You assert that the requested information is excepted from required public disclosure pursuant to sections 552.101 and section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted documents at issue.

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). You state that the submitted documents "are central to an investigation currently ongoing in the Police Department involving possible criminal violations (Penal Code, Public Information law and the Polygraph Examiner's Act, among others), as well as violations of City and departmental procedures concerning handling and use of City records." Consequently, as the requested information relates to an investigation of crime, you may withhold the requested information pursuant to section 552.108 of the Government Code.<sup>1</sup> Although section

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<sup>1</sup>As we resolve your request under section 552.108, we need not address your section 552.101 arguments at this time. In arriving at this conclusion, however, we assume that the investigation currently ongoing within the Police Department is a *criminal* investigation. *Cf. Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied) (where no criminal investigation or prosecution results from an investigation of a police officer for alleged misconduct, section 552.108 is inapplicable).

552.108 authorizes you to withhold the remaining information from disclosure, you 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.<sup>2</sup>

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.

Yours very truly,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref.: ID# 107541

Enclosures: Submitted documents

cc.: Mr. Brett Shipp  
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<sup>2</sup>We note, however, that some of the information submitted to this office for review is deemed confidential by law, the release of which may constitute a criminal offense. See Gov't Code § 552.352.