



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 15, 1998

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

OR98-0971

Dear Mr. Pigott:

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# 114654.

The Texas Department of Public Safety received a request for information relating to the investigation of former Fort Stockton Police Chief Dee Johns. You state that front page information will be released to the requestor. However, you claim that the remaining information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You have submitted a representative sample of the requested information for our review.¹

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

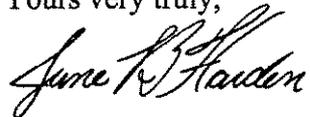
(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

¹We 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). This open records letter does not reach and, therefore, does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that former Chief Johns was prosecuted and convicted of illegally recording telephone calls. You state that the case is now on appeal. You also state that the Pecos County District Attorney has requested that the information not be released while this case is still on appeal. Based on your representations, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore we conclude that the department may withhold the remaining requested information from disclosure under section 552.108(a).

Because we are able to resolve your request under section 552.108, we need not address your additional argument against disclosure. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ghg

Ref.: ID# 114654

Enclosures: Submitted documents

cc: Ms. Mary Agnes Welch
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(w/o enclosures)