



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 23, 1998

Mr. Robert F. Maxfield
Legal Advisor
Dallas County Sheriff's Department
Frank Crowley Courts Building
133 North Industrial Blvd., LB 31
Dallas, Texas 75207-4313

OR98-1030

Dear Mr. Maxfield:

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# 113536.

The Dallas County Sheriff's Office (the "Sheriff's Office") received multiple requests for a variety of information concerning "[a]ll un-executed and outstanding misdemeanor & felony warrants in Dallas County."¹ In response to the request, you submitted to this office for review a representative sample of the records which you assert are responsive.² You assert that the information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

We note that the submitted representative sample of documents consists of executed and unexecuted arrest warrants. You explain that "Dallas County maintains data on arrest warrants Some warrants have been executed and some are still outstanding at any point

¹In your original letter to this office, you explained that the first requestor seeks "a weekly database listing" of the arrest warrant information. We note that, to the extent the pending open records request constitutes a standing request for information, the Open Records Act does not require a governmental body to comply with a standing request for information to be collected or prepared in the future. See Attorney General Opinion JM-48 (1983).

²We 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.

in time.” If the requested arrest warrants have been filed with a court, they are a part of the public record and must be released.³ See *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (orig. proceeding) (if documents are part of public record they cannot be withheld under section 552.108). Therefore, the Sheriff’s Office may not withhold a filed and executed arrest warrant from required public disclosure under section 552.108 of the Government Code.⁴ If, however, the arrest warrants have not been filed with a court, we will consider whether the records are protected from disclosure by section 552.108, the “law enforcement exception.”

The Seventy-fifth Legislature amended section 552.108 of the Government Code to read in part as follows:

(a) Information 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;

(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; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

³The law enforcement exception” was not intended by the legislature to shield from public view information in the hands of police units that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit. See Open Records Decision Nos. 434 (1986) at 2, 287 (1981) at 2 (whether information falls within section 552.108 must be determined on a case-by-case basis).

⁴We note that one of the requestors requests the information at issue “in electronic format: fixed length, fixed block file(s) on either diskette, cartridge or 9-track tape.” Chapter 552 does not require the preparation of information in the form requested by a member of the public, unless the information exists in an electronic format. See Gov’t Code § 552.231; see also section 552.228 (regarding information in electronic format). We suggest that if you have any concerns over the costs associated with providing the requestor with the information at issue in “electronic format,” that you contact the Open Records Administrator for the General Services Commission. See Gov’t Code §§ 552.261-.273.

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. 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 explain that “[p]ublication of data on unserved warrants may have the effect of hindering apprehension or arrest of the subject of the warrant.” Because you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that the submitted information may be withheld under section 552.108(a)(1). *See* Open Records Decision No. 216 (1978). You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law.⁵ 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 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

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⁵However, we note that some of the requested information may be confidential. *See* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

Ref.: ID# 113536

Enclosures: Submitted documents

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