



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 7, 1998

Ms. Heather Silver
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-1589

Dear Ms. Silver:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116407.

The Dallas Police Department (the "department") received a request for "all police information" concerning a murder case. You submitted to this office as responsive to the request information that you contend is confidential under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. You also submitted several photographs, including "mug shots of a witness, mug shots of unidentified people, and the photographs of a woman whose relationship to the case is unknown." You assert that these photographs may be protected from disclosure under section 552.108 of the Government Code.

Section 552.101 applies to information that is made confidential by law, including information made confidential by statute. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may

not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090-127. We thus agree that responsive CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F.

Section 552.108(a) provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure 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

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

Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) 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. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not stated that the requested information pertains to an ongoing criminal investigation or prosecution nor have you explained how its release otherwise would interfere in some way with the detection, investigation, or prosecution of crime.

A governmental body claiming section 552.108(a)(2) should demonstrate that the requested information relates to a concluded criminal investigation that has come to some type of final result other than a conviction or deferred adjudication. Because your letter indicates that the case resulted in a conviction, section 552.108(a)(2) is clearly inapplicable.

You do not assert that the information at issue was prepared by an attorney representing the state or that it reflects the mental impressions or legal reasoning of an attorney representing the state. Thus, section 552.108(a)(3) is inapplicable to the documents at issue. Because you have not shown the applicability of section 552.108 of the Government Code to the photographs, they may not be withheld from disclosure under section 552.108.

We note, however, that some of the people in the photographs appear to be juveniles. We strongly suggest that you review these photographs and identify the individuals in the photographs prior to release to ensure that you are not releasing records concerning juveniles that may be confidential by law.¹

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 office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116407

Enclosures: Submitted documents

cc: Ms. Deborah Cherry
7736 Ryan Ridge Drive
Dallas, Texas 75232
(w/o enclosures)

¹We note that law enforcement records concerning juveniles are governed by the law in effect at the time the conduct occurred. Open Records Decision No. 644 (1996).