



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 15, 1998

Mr. Richard Brown
Assistant City Attorney
Criminal Law & Police Division
1500 Marilla
Dallas, Texas 76201

OR98-3128

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 120727.

The Dallas Police Department received a request for the report associated with a specified internal affairs complaint against a Dallas police officer. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the sample documents you have submitted.¹

Section 552.108 of the Government Code provides in part:

(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 Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

¹In reaching our conclusion here, 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). 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.

(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;

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

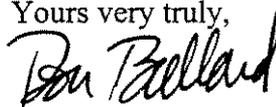
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(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

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 indicate that the requested information concerns an ongoing criminal investigation. You state that the requestor "was charged with assault on a public servant arising out of the incident that led to the internal affairs complaint." You explain that the assault case is currently pending prosecution. You have only provided this office with a copy of the requestor's arrest report. Consequently, we are unable to determine and you have not shown how the internal affairs report relates to the pending prosecution. You have not established that section 552.108 applies to the requested internal affairs report. Thus, you may not withhold it.

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,



Don Ballard

Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 120727.

Enclosures: Submitted documents

cc: Mr. Valis Houston
6400 Independence Pky. # 4703
Plano, Texas 75023
(w/o enclosures)