



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 15, 1998

Mr. Richard Brown
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-3131

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# 120653.

The City of Dallas Police Department (the "department") received a request for a police report and supplement regarding an incident of harassment. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the representative sample of documents submitted.¹

Section 552.108, the "law enforcement exception," excepts from public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation or prosecution of crime. Gov't Code § 552.108(a)(1). 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). The offense report involves an incident of harassment that occurred on

¹n 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.

January 6, 1996. You state that the requested information relates to "an open record of prosecution in which there is a further pending investigation." However, harassment is a Class B misdemeanor, and the statute of limitations for a misdemeanor is two years from the date of the commission of the offense. Penal Code § 42.07; Code Crim. Proc. art. 12.02. You have not explained how or why release of the requested information would interfere with the investigation of an offense for which the statute of limitations has run. Thus, because you have not shown the applicability of section 552.108(a)(1), we conclude that you may not withhold the requested information under section 552.108(a)(1). Moreover, because you have not shown the applicability of the other subsections of section 552.108, you may not withhold the requested information under section 552.108.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 120653

Enclosures: Submitted documents

cc: Mr. Galen Anderson
1181 Big Rock
Canton, Texas 75103
(w/o enclosures)