



May 7, 1999

Mr. Saul Pedregon
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-1253

Dear Mr. Pedregon:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124132.

The Dallas Police Department (the “department”) received a request for a copy of the “force continuum policy and the use of mace.” You contend that the requested information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Section 552.108, the “law enforcement exception,” provides:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public 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.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted

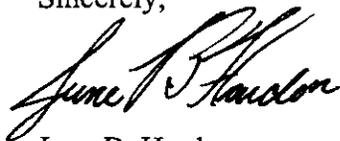
from [public disclosure] if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) the internal record or notation: (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.

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. You explain that “if a suspect knew exactly what type of equipment that a police officer was to use, or the techniques that he was to utilize, the suspect would take extra precaution to contravene these techniques and devices. This would hinder the police officer’s ability to effectively apprehend a suspect and would place the officer in danger.” Based upon your arguments, we conclude that the release of the requested information would interfere with the investigation, detection, and prosecution of crime. Consequently, the department may withhold the requested information from disclosure pursuant to section 552.108 of the Government Code.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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

¹Because we are able to resolve this matter under section 552.108, we do not address your section 552.111 arguments at this time.

Ref.: ID# 124132

encl. Submitted documents

cc: Mr. Michael Latice
11451 Cromwell Court
Dallas, Texas 75229
(w/o enclosures)