



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1995

Mr. Douglas R. Hyde
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR95-016

Dear Mr. Hyde:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27931.

The City of Dallas (the "city"), through its police department, has received a request for "[a]ny and all documentation, communication, (Departmental/ Interdepartmental) letters/memos pertaining to Tejano Rodeo Westend-Dallas, TX (a club) and (or) Alfredo Hinojosa including but not limited to those documents, letters/memos which are in the possession or generated by vice and/or narcotics division." You have submitted the requested information to us for review and claim that section 552.108 of the Government Code exempts it from required public disclosure.

Section 552.108 exempts from required public disclosure

- (a) [A] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . .
[; and]
- (b) [A]n 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 . . .

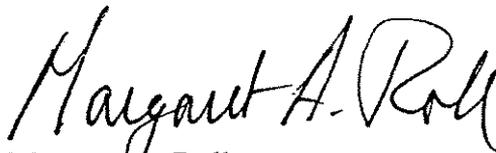
When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 exempts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of*

Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3 (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.* at 2.

The information submitted to us for review indicates that several persons were arrested on February 4, 1994, in connection with an investigation that falls within the scope of the request. You claim releasing the requested materials "will compromise an ongoing police investigation." In this instance, however, the police investigation appears to be concluded. Moreover, you have provided this office with no information indicating that prosecution in this matter is pending, nor have you explained how the submitted information relates to a pending police investigation. Finally, you have not reasonably explained, nor does the submitted information supply an explanation on its face, how release would unduly interfere with law enforcement. Accordingly, we conclude that the city may not withhold the requested information under section 552.108 of the Government Code.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 27931

Enclosures: Submitted documents

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(w/o enclosures)