



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 24, 1995

Mr. John Weddle  
Legal Advisor  
Dallas County Sheriff's Office  
Frank Crowley Courts Building  
133 North Industrial Boulevard  
Dallas, Texas 75207-4313

OR95-193

Dear Mr. Weddle:

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# 31420.

The Dallas County Sheriff's Department (the "sheriff's department") has received a request for information contained in the internal affairs investigation file of Hank Stiller, a deputy sheriff. Specifically, the requestor seeks:

All documents furnished you by Bill Murray about Ronald Beggs.

All documents furnished you by Nancy Murray about Ronald Beggs.

You have submitted the requested information to us for review and claim that sections 552.101 and 552.108 of the Government Code except it from required public disclosure.

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that section 552.101 excepts the requested information because "the material was produced by an individual cooperating in an internal affairs investigation as a witness and was released with the understanding that its source would remain confidential." We note, however, that information is not confidential under section 552.101 simply because the party submitting it anticipates or requests that it be kept confidential. Open Records

Decision No. 479 (1987). You have not cited any law, nor are we aware of any, that makes the requested information confidential. Accordingly, we conclude that the sheriff's department may not withhold the requested information under section 552.101 of the Government Code.

Next, we address your assertion that section 552.108 of the Government Code excepts the requested information from required public disclosure. Section 552.108 excepts 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 excepts 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 its release would unduly interfere with law enforcement or crime prevention. 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.

We are not aware that the requested information relates to a pending law enforcement investigation. Moreover, you do not explain how release of the requested information would unduly interfere with law enforcement. However, some of the submitted information, which we have marked for your convenience, shows on its face that its release would unduly interfere with law enforcement or crime prevention. We conclude that the sheriff's department may withhold the marked information in its entirety under section 552.108 of the Government Code. The sheriff's department may not withhold the remainder of the submitted information under section 552.108 and must make it available to the requestor.

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# 31420

Enclosures: Marked documents

cc: Mr. Ronald L. Beggs  
408 Woodhill  
Coppell, Texas 75019  
(w/o enclosures)