



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Ms. Tiffany Haertling  
Hayes, Coffey & Berry, P.C.  
P.O. Box 50149  
Denton, Texas 76206

OR95-813

Dear Ms. Haertling:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33860.

The City of Oak Point (the "city") received two requests for a copy of the Interlocal Agreement among the cities of Cross Road, Oak Point and Lincoln Park for police protection. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You also claim that the requested document is a document of the judiciary and therefore not subject to the act. We have considered the exception you claimed and have reviewed the documents at issue.<sup>1</sup>

Section 552.003(b) of the Government Code excludes the judiciary from the definition of a "governmental body" that is subject to the Open Records Act. In *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ), the court explained the purpose of the judiciary exception:

The judiciary exception...is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary.

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<sup>1</sup>We note that in a subsequent letter, you also claimed that the requested document was excepted from disclosure under section 552.111 of the Government Code. However, the city did not claim this exception within ten days from the date it received the request. As the exception under section 552.111 is discretionary, we conclude that the city has waived that exception. See Gov't Code § 552.301(b).

*Id.* at 152. To fall within the judiciary exception, the document must contain information that pertains to judicial proceedings. *See* Open Records Decision Nos. 527 (1989) (Court Reporters Certification Board not part of judiciary because its records do not pertain to judicial proceedings), 204 (1978) (information held by county judge that does not pertain to proceedings before county court subject to Open Records Act). The agreement submitted to this office for review only makes arrangements for cities to provide municipal court services for one another. This information does not pertain to judicial proceedings. Therefore, we conclude that the document submitted to this office for review is not a record of the judiciary and is subject to the Open Records Act.

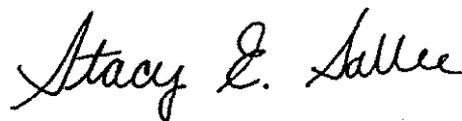
Section 552.108 of the Government Code excepts from disclosure:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . .
- (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.

First, the document submitted to this office does not appear to be a record or an internal record or notation "of a law enforcement agency or prosecutor." Second, as the information submitted to this office for review does not relate to an open criminal investigation, it could be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." Open Records Decision Nos. 616 (1993) at 1, 508 (1988) at 2. You have not shown how the provision of police services by one city for another will unduly interfere with law enforcement or crime prevention. Therefore, the city may not withhold the agreement 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,



Stacy E. Sallee  
Assistant Attorney General  
Open Government Section

SES/KHG/rho

Ref.: ID# 33860

Enclosures: Submitted documents

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