



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1996

Ms. Doreen E. McGookey
Assistant City Attorney
Office of the City Attorney
501 Police & Courts Building
Dallas, Texas 75201

OR96-0623

Dear Ms. McGookey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39528.

The City of Dallas (the "city") received a request for "a copy of the complete report and findings with regard to the investigation of Senior Cpl. Shiderly, Jr. by Internal Affairs." You have submitted to this office for review the Internal Affairs Department's ("IAD") file on Detective Daniel C. Shiderly. You contend that the requested information is excepted from required public disclosure by section 552.108 of the Government Code.

Section 552.108 excepts from disclosure:

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

When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. 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). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere

with law enforcement or crime prevention." See *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

In this instance, Detective Shiderly was accused of inadequately investigating an alleged aggravated assault. A defendant has been charged with that assault, and the criminal case is pending. You state that the IAD investigation into Detective Shiderly's conduct is "closely intertwined with the pending criminal case," and "many of the same witnesses involved in the criminal case gave statements in the Internal Affairs investigation about matters that are directly related to the criminal investigation." Based upon your statements, we presume that the IAD file on Detective Shiderly has become part of the police department's active investigation file on the related aggravated assault. Because release of the IAD file would hinder prosecution of a related pending case, section 552.108 is applicable to the IAD file. You must, however, release basic front page offense report information related to the aggravated assault, but you may withhold the remainder of the requested information from disclosure pursuant to section 552.108.¹

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref.: ID# 39528

Enclosures: Submitted documents
Summary of Open Records Decision No. 127

¹ Basic information includes the location of the incident, time of occurrence, and a description of the incident. *Id.* at 2. In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976), the court identified certain types of information which are public. Although this information is generally found on the first page of an offense report, its location is not determinative. It must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. See Open Records Decision No. 127 (1976) at 5. We have enclosed a summary of the types of information considered public which must be disclosed.

cc: Mrs. Adelfa B. Callejo
Callejo and Callejo
4314 North Central Expressway
Dallas, Texas 75206
(w/o enclosures)