



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 27, 1997

Ms. Jacquelyn Middlebrooks
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR97-0163

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103143.

The City of Dallas (the "city") received a request for "[a]ll internal and criminal findings pertaining to the conduct of Detective Nick or Nicky Earwood." You claim that the requested documents are excepted from disclosure in their entirety by section 552.108 of the Government Code. Additionally, you contend that section 552.101 of the Government Code excepts portions of the documents from disclosure. We have considered the exceptions you claim and have reviewed the documents at issue.

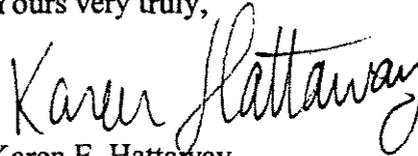
We have marked a sample of the documents at issue that appear to have been filed with a court. Documents filed with a court are generally considered public. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992). Thus, documents of this type must be released to the requestor.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[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." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). In this instance, you have shown that the requested documents are intertwined with a pending criminal prosecution and that releasing the documents to the public could seriously interfere with the criminal prosecution. This office has previously held that any proper custodian of records can claim the section 552.108 exception for information relating to a criminal investigation or prosecution. Open Records Decision Nos. 474 (1987), 372 (1983).

Therefore, with the exception of those documents that have been filed with a court, the city may withhold the requested documents from disclosure under 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.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 103143

Enclosures: Marked documents

cc: Mr. Alan Wang
Reporter
KDFW-TV
400 N. Griffin St.
Dallas, Texas 75202
(w/o enclosures)

¹Because we have ruled that you may withhold all documents except those filed with a court from disclosure pursuant to section 552.108, we need not address your section 552.101 claim. We note, however, that portions of the documents excepted from disclosure under section 552.108 may also be confidential by law. See Gov't Code § 552.352 (distribution of confidential information is criminal offense).