



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 25, 1997

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager
& Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR97-0617

Dear Mr. Marshall:

On behalf of the City of Coppell (the "city"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 104887.

The city received a request for a "copy of transcript and of recording of interview of Jean Murph by Michael Gonce which pertains to my complaint against Charles Wingo." You submitted the requested tape recording, but make no mention of the requested transcript. You state that the requested information is part of the city police department file on an internal investigation of misconduct or illegal activities by various members of the police department. You assert that the requested information is excepted from required public disclosure by section 552.108(b) of the Government Code.

Section 552.108(b) of the Government Code excepts from disclosure "[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(b); *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Section 552.108 generally is not applicable to information relating to complaints against law enforcement officers when no criminal investigation or prosecution results from an investigation of allegations of officer misconduct. *See Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied); Open Records Decision No. 350 (1982). We have no information about whether criminal prosecution resulted from the investigation of the complaint here. Consequently, the city may not withhold the requested information from public disclosure based on section 552.108.

We are resolving this matter with this 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 may 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,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 104887

Enclosure: Submitted tape

cc: Mr. Doyle Calfey
449 Harris # C103
Coppell, Texas 75019
(w/o enclosure)