



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1997

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR97-0977

Dear Mr. Dempsey:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105818.

The City of Garland (the "city") received a request for the 911 and dispatcher communications concerning an incident that led to a police officer being killed.¹ An audiocassette tape, which you state contains all of the responsive recordings at issue, was submitted to this office for review. You state that the recorded information is related to a pending capital murder case, and assert that the tape, thus, may be withheld from disclosure under section 552.108 of the Government Code.

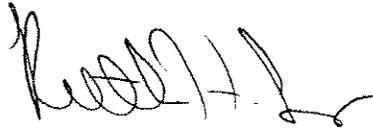
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We have reviewed the tape at issue and agree it may be withheld from disclosure pursuant to section 552.108.²

¹The requestor also asked for "all video or file pictures captured by the bank's security camera." You state that the city does not have any videotape or photographs responsive to this portion of the request. We note that the city is not obligated to provide information which is not in its possession or to compile new information. Open Records Decision Nos. 561 (1990) at 9 (city does not have to obtain new information), 483 (1987) at 2, 452 (1986) at 3 (open records request applies to information in existence when request is received), 362 (1983) at 2 (city does not have to supply information which does not exist).

²We note that the city may choose to release the tape. Gov't Code § 552.007.

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 any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 105818

Enclosures: Submitted audiocassette tape

cc: Mr. Clif Caldwell
KXAS-TV/Dallas-Fort Worth
3900 Harry Hines Boulevard
Dallas, Texas 75219
(w/o enclosures)