



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 2, 1998

Mr. John Dahill  
Assistant District Attorney  
Dallas County  
Administrative Building  
411 Elm Street  
Dallas, Texas 75202

OR98-0320

Dear Mr. Dahill:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your requests were assigned ID#s 112064, 112316, and 112453.

Dallas County (the "county") received several requests for the release of parking records for judges serving in the county criminal courts and district criminal courts. You explain that the county maintains a secured parking garage and computer system that controls access to and from the parking garage. The parking information at issue shows the date and time of the judges' access to and exit from the secured garage. You contend that these parking records are not subject to the Open Records Act, pursuant to section 552.003 of the Government Code. You argue, alternatively, that the parking records are excepted from disclosure pursuant to court order and that they also are protected from disclosure by section 552.108 of the Government Code. You submitted representative samples of the records at issue to this office for review.<sup>1</sup>

The Open Records Act, chapter 552 of the Government Code, governs the release of public information collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by or for a governmental body. Gov't Code § 552.002. Section 552.003(1)(B) provides that the definition of "governmental body" for purposes of the Open Records Act does not include the judiciary. You assert that the requested parking records are records of the judiciary and thus are not subject to the Open

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Records Act. In support of your argument, you refer to the Texas Supreme Court per curiam opinion for Miscellaneous Docket No. 97-9141 (issued August 21, 1997), which determined that Supreme Court telephone billing records are judicial records not subject to access under the Open Records Act. We note that the telephone billing records at issue were collected and were being maintained for the court by the General Services Commission ("GSC"), in GSC's capacity as an agent of the court. However, in this situation, the parking records at issue are records of the county that are being maintained for the county, rather than records of the judiciary. As the county is a governmental body for purposes of the Open Records Act, and county records are generally subject to the Open Records Act, we will address your arguments that the parking records are otherwise protected from disclosure.

You assert that the parking records are excepted from disclosure by court order. Section 552.107(2) provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." See Open Records Decision No. 415 (1984) at 2. You submitted to this office a joint order by 15 district judges, (Dist. Ct. Of Dallas County, 265<sup>th</sup> Judicial Dist. Of Texas, Sept. 19, 1997), whose parking records were released to Dallas County Commissioner Jim Jackson. That order directed Mr. Jackson to return the parking records to the county's Data Services Department. You also submitted to this office a joint memorandum from the same district judges, dated October 31, 1997, which addresses one of the current requests for parking records. That memorandum states, in part:

[T]he Criminal District Court Judges and the judges of the Judicial District Courts of Dallas County giving preference to criminal cases have determined that such records relate directly to the security of the judges and constitute records of the judiciary. Even though such records may be created and maintained by the county, they contain information pertaining directly to the judiciary. As you know, the Open Records Act specifically excludes the judiciary. It was the intent of the judges that their order of September 19, 1997 (attached hereto) apply equally to records covering all time periods for the Crowley Courts Building secured access area. Therefore it is the unanimous opinion of the judges that such records should not be released.

The court order submitted to this office directed the return of certain parking records to the county. On its face, however, it does not make the requested records confidential. The October 31, 1997 memorandum submitted to this office is not a court order for purposes of section 552.107(2). Section 552.107(2) is thus inapplicable in this situation.

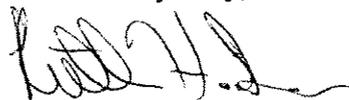
You assert that the parking records are protected from disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) provides an exception from disclosure for internal records or notations of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution if release would interfere with law enforcement or prosecution of crime. Generally, a governmental body claiming an exception from disclosure under section 552.108(b)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977).

You note that the parking records requested are for the judges who try criminal cases. You state that some of the individuals sentenced by these judges, and also other individuals, "have felt inclined to seek retribution" against these criminal court judges. In order to help ensure the safety of the criminal judges whose parking records are at issue, the county maintains a secure parking area. Another safety measure employed is the use of security checkpoints with metal detectors and x-ray machines, through which individuals entering the criminal courthouse must pass. You inform this office that the sheriff's department, a law enforcement agency, has criminal jurisdiction over the courthouse and secured garage, and that the access and exit information is retained "for investigative purposes should there be a criminal incident."

You contend that public release of records showing a judge's usual arrival and departure time could compromise that judge's safety because "any individual bent on doing harm" to one of the judges could use the parking records to determine when a judge is likely to be arriving or leaving a secured area, and thus would be more vulnerable to attack. In this situation, we believe that you have shown that release of the requested parking records could compromise the security measures used to protect the judges. Open Records Decision No. 413 (1984) (release of sketch showing security measures might seriously impair legitimate law enforcement interests). Therefore, the parking records at issue may be withheld from disclosure pursuant to section 552.108.

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

Yours very truly,



Ruth H. Soucy  
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Open Records Division

RHS/ch

Ref.: ID# 112064, 112316, 112453

Enclosures: Submitted documents

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