



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 8, 1998

Mr. William M. Toles
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1190

Dear Mr. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114937.

The City of Dallas Police Department (the "department") received a request for "all records (except photos) including officer's notes concerning the following: Service #0063163-A, dated 04/14/92." In response to the request, you submitted to this office for review a copy of the records which you assert are responsive. You claim that submitted records are excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

Section 552.108 of the Government Code, as amended by the Seventy-fifth Legislature, excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(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 assert that the “release of these documents seriously undermines and interferes with current criminal investigations.” However, a review of the records indicates that the investigation of this offense is not ongoing. You have not sufficiently explained whether the requested information pertains to an ongoing criminal investigation or prosecution nor have you explained how its release would interfere in some way with the detection, investigation, or prosecution of crime.

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. It is not clear to this office, nor have you explained, how or if the investigation actually concluded.

You do not assert that the information at issue was prepared by an attorney representing the state or that it reflects the mental impressions or legal reasoning of an attorney representing the state. Thus, section 552.108(a)(3) is inapplicable to the documents at issue. Since you have not shown the applicability of section 552.108 to the records at issue, you must release the information to the requestor.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 114937

Enclosures: Submitted documents

cc: Mr. Virgil Murray
225 Beachwood Loop
Trinidad, Texas 75163
(w/o enclosures)