



February 9, 1999

Mr. Richard Brown  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
Municipal Building  
Dallas, Texas 75201

OR99-0395

Dear Mr. Brown:

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# 121811.

The Dallas Police Department (the "department") received a request for information relating to a specific homicide. You state that you will release some of the requested information. You claim, however, that "information contained within this arrest report" is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample document.<sup>1</sup>

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

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

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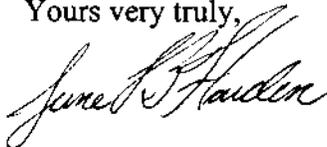
<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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.

Generally, a governmental body claiming an exception under section 552.108 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. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have submitted for our review a copy of the Cause of Death sheet for a specific homicide. You claim that the submitted document relates to a pending prosecution and, therefore, may be withheld under section 552.108. We note, however, that the submitted information is the same type of information contained in an autopsy report. Autopsy reports prepared by a medical examiner are expressly made public by the Code of Criminal Procedure. Code Crim. Proc. art. 49.25, § 11. We do not believe nor have you demonstrated how the release of autopsy information would interfere with the detection, investigation or prosecution of crime. Open Records Decision No. 287 (1981) ("law enforcement" exception was not intended by legislature to shield from public view information in hands of police units that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit.) Consequently, the department may not withhold the requested information under section 552.108(a)(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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 121811

Enclosures: Submitted documents

cc: Mr. J. T. Gilbert  
The Travelers Protective Association of America  
3755 Lindell Boulevard  
St. Louis, Missouri 63108-3476  
(w/o enclosures)