



April 8, 1999

Mr. Michael Bostic
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR99-0961

Dear Mr. Bostic:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 123440.

The City of Dallas Police Department (the "department") received a request for copies of the "criminal investigation" and the "administrative investigation" of the requestor, who identified himself as an officer with the department. In response to the request, you submit to this office for review a representative sample of the information at issue.¹ You assert that the requested information is excepted from disclosure based on section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108, the "law enforcement," exception, *in part*, 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,

¹We 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.

....

(b) An 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* is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication

Gov't Code § 552.108. 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).

In your letter to this office, you explain that “Lieutenant Ron Waldrop with the Special Investigations Bureau of the Dallas Police Department has indicated that this case is presently still under investigation.” After reviewing the submitted records, we believe that the material at issue is information of a law enforcement agency that deals with the investigation and prosecution of crime.² As the requested information relates to a criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, most of the information at issue may be withheld pursuant to section 552.108(a)(1).

We note, however, that you must release the type of information that is considered to be basic front page offense report information even if this information is not actually located on the front page of the offense report. *See* Gov't Code § 552.108(c) (basic information about arrested person, arrest and crime not excepted by section 552.108); *Houston*

²When a governmental body claims section 552.108, the relevant question this office must address is whether the release of the requested information would undermine a legitimate interest relating to law enforcement or prosecution. Open Records Decision Nos. 434 (1986), 350 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied) (where no criminal investigation or prosecution results from investigation of police officer for alleged misconduct, section 552.108 is inapplicable). This office has determined that section 552.108 does not protect general personnel information from public disclosure. Open Records Decision No. 562 at 10 (1990) (applying predecessor statute).

Chronicle Publ'g Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. 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 questions about this ruling, please contact our office.

Sincerely,

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/nc

Ref.: ID# 123440

Encl: Submitted documents

cc: Mr. Fred Strong
1122 Glen park
Dallas, Texas 75241
(w/o enclosures)