



May 20, 1999

Mr. Charles M. Allen, II  
Legal Office  
Richardson Police Department  
P.O. Box 831078  
Richardson, Texas 75201

OR99-1397

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124573.

The Richardson Police Department (the "department") received a request for information concerning several police officers, their issuance of notices to appear, and documents pertaining to allegations of a ticket quota system. You state that the department does not have some of the requested records. The Public Information Act does not require a governmental body to make available information which does not exist. Open Records Decision No. 362 (1983). You have submitted one Notice to Appear and assert that it is excepted from disclosure under section 552.108 of the Government Code and chapter 143 of the Local Government Code. Except for the submitted Notice to Appear and any requested documents that do not exist, you must release all other requested information as you have not asked to withhold any other information as required by section 552.301 of the Government Code. We have considered the exceptions you claim and have reviewed the document submitted.

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

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (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. . . .

(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. . . .

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). We have reviewed your arguments and conclude that you have not shown how release of the submitted information would interfere with law enforcement under section 552.108(a)(1) or (b)(1). Additionally, you have not shown how either section 552.108(a)(2) or (b)(2) applies to the submitted information. Thus, you may not withhold the submitted information under section 552.108.

Next, you claim that chapter 143 of the Local Government Code excepts the Notice to Appear from public disclosure. You do not explain how the chapter applies to except the information nor can we discern the applicability of chapter 143. Therefore, you may not withhold the information under chapter 143. You must release the submitted Notice to Appear.

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 124573

Encl.: Submitted document

cc: Mr. Fred Slice  
2406 Diamond Oak  
Garland, Texas 75044  
(w/o enclosures)