



July 7, 1999

Mr. Steven D. Monte
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-1892

Dear Mr. Monte:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127272.

The Dallas Police Department (the “department”) received a request for a copy of the “Internal Affairs resumes, complaint and personnel files of Harold B. Cornish.” You assert that the records at issue are protected from disclosure under sections 552.103 and 552.108 of the Government Code. You submitted to this office a representative sample of those records.¹

You indicate that some of the records at issue are medical records, access to which is governed by the Medical Practice Act (the “MPA”), article 4495b of Vernon’s Texas Civil Statutes. Sections 5.08(b) and (c) of the MPA provide:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

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 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.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Section 5.08(j)(1) provides for release of medical records upon the patient's written consent, provided that the consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. Section 5.08(j)(3) also requires that any subsequent release of medical records be consistent with the purposes for which the department obtained the records. Open Records Decision No. 565 (1990) at 7. We agree that the responsive medical records may be released only as provided under the MPA. Open Records Decision No. 598 (1991).

You assert that section 552.108 protects the remaining records from disclosure. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You explain that the records at issue pertain to an ongoing criminal investigation. We note that this office has previously issued rulings concerning this investigation. In Open Records Letters No. 98-1871 (1998), 98-2027 (1998), and 99-1394 (1999), we agreed that certain records could be withheld from disclosure under section 552.108, but we also ruled that certain information must be released. As you indicate that the criminal investigation is still ongoing, you should rely upon those prior rulings for any documents previously ruled upon.

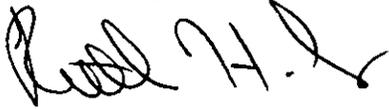
As to any other responsive information that has not been previously ruled upon, we agree that release of this other information would interfere with the detection, investigation, or prosecution of crime.² See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Because this information may be withheld from disclosure under section 552.108, we need not address your section 552.103 arguments.

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

²We assume that the front page offense information has been released as directed in the previous rulings.

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, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 127272

Encl. Submitted documents; Open Records Decision Nos. OR98-1871, OR98-2027
and OR 99-1394

cc: P. McZale
4203 Canal Street
Dallas, Texas 75210-1602
(w/o submitted documents; w/Open Records Decision Nos. OR98-1871,
OR98-2027 and OR 99-1394)