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Dallas County Sheriff's Department
Lupe Valdez, Sheriff
Office of the Sheriff
Frank Crowley Criminal Courts Building
133 Riverfront, LB-31
Dallas, TX 75207-4313

Certified Mail No. 7008 0150 0001 5871 3680

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Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548
By Fax No. 512-463-2092

Public Information Request of Avi S. Adelman

Dear Sir/Madam:

The Dallas Sheriff's Department received a citizen complaint from Avi S. Adelman on two officers who allegedly were working off duty at a bar, in violation of the Department's Code of Conduct. Mr. Adelman also made a request for Public Information for "...copies of the two officers off duty work authorizations for this assignment at this address ..." See Exhibit 1- copy of the request for information. Mr. Adelman's complaint is currently being investigated by the Internal Affairs unit of the Sheriff's Department. It is unknown whether the information compiled in the investigation will be referred to the Criminal Investigation Division. The Internal Affairs unit is still in the process of developing the evidence in the case and no decision has been made regarding possible criminal charges. The complainant has alleged that one of the officers "attempted to commit official oppression while in uniform." See Exhibit 1. Alleged Official Oppression is a criminal offense which violates Texas Penal Code Section 39.03.

Because the investigation is pending, the Sheriff's Department contends that Government Code Section 552.108 would apply to prevent release of the information requested. More specifically, Section 552.108(a) states that:

(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 a crime

Release of information during a pending investigation would allow the officers under investigation to anticipate the questions that they might be asked and would reveal evidence prior to consideration of the case by Criminal Investigation Division. This would interfere with both the Internal Affairs investigation and any criminal investigation that might come out of the Internal Affairs investigation. Information which relates to a pending investigation may generally be withheld. See OR 2001-0198.

Also, Government Code Section 552.108(b) would also apply. Section 552.108(b) states:

(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;

As stated in the above paragraph, release of the internal records at this time would interfere with law enforcement by revealing evidence to the persons accused before the investigation is complete. The officers being investigated would know the exact content of the evidence against them and could revise their defenses accordingly. Therefore, the documents requested should be withheld until both the Internal Affairs and any criminal investigation is completed.

No previous Attorney General ruling has been requested on this information. The off duty work authorizations are attached as Exhibit 2. A copy of this letter will be mailed to the requestors at the address listed below. Please contact me if you need any further information.
