OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

December 9, 1999

Mr. Ric Gonzalez
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR99-3561

Dear Mr. Gonzalez:

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# 130429.

The City of Lewisville Police Department (the "department"), which your office represents, received a written request for the "full record" of a specified offense report. In response to the request, you submit to this office for review the information at issue. You state that the department has released to the requestor some of the responsive information.[1] You assert, however, that the remaining information is excepted from disclosure under 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 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 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]

[1]As you are aware, basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *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); Open Records Decision No. 127 (1976).

> (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; or
>
> . . . .
>
> (c) This section does not except from the requirements of section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

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).

You inform us that the requested information pertains to a pending case, and "the release of such information would interfere with the detection and prosecution of this offense." As it appears that the requested records relate to a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, except as noted above, the remaining information may be withheld pursuant to section 552.108(a)(1). You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law.[2] Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

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[2]We note that some of the information in the submitted documents is also confidential by law. Therefore, if you choose to waive your right to withhold the information under section 552.108, we urge you to exercise caution in releasing the information to the public. *See* Gov't Code §§ 552.352 (distribution of confidential information is criminal offense).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Sam Haddad

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref: ID# 130429

Encl. Submitted documents

cc: Ms. Jennifer Forst
2041 West Hebron #2717
Carrollton, Texas 75010
(w/o enclosures)