



February 15, 2000

Ms. Sarah H. Blackburn
Assistant City Attorney
City of Midland
300 North Loraine, Room 320
Midland, Texas 79702-1152

OR2000-0543

Dear Ms. Blackburn:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID # 132355.

The Midland Police Department (the “department”) received a request for a specified report. You have submitted the responsive information for our review.¹ You contend that the submitted report is excepted from public disclosure under sections 552.101, 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.²

Section 552.108 of the Government Code, the “law enforcement exception,” excepts from disclosure “[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection,

¹We note that you submitted three duplicate copies of a single responsive report as Exhibits “B,” “C” and “D.” This letter ruling will refer to the “report” in addressing your exceptions to disclosure.

²We also note that the City of Midland notified each person identified in the responsive report of the city’s request for a decision under section 552.301 of the Government Code. We remind the city that a person other than the requestor is not entitled to such notice and opportunity to comment under section 552.305 unless that person’s proprietary information may be subject to an exception to disclosure under sections 552.101, 552.110, 552.113, or 552.131 (Economic Development Information). *See Gov’t Code § 552.305(d).*

investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). You state that the submitted report relates to an investigation that did not result in a conviction or a deferred adjudication. Based on your representation and our review of the report, we agree that it is excepted from disclosure under section 552.108(a)(2) of the Government Code. We note, however, that section 552.108 also requires the release of “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). We believe that section 552.108(c) refers to the basic “front-page” offense and arrest report information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); *see also* Open Records Decision No. 127 at 3-4 (1976) (stating that elements of basic information include a detailed description of the offense). The department must release basic “front-page” offense and arrest report information even if it does not literally appear on the front page of a police report.³

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).

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.

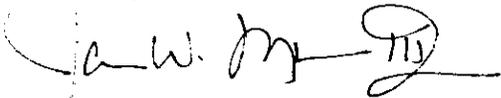
³As section 552.108 is dispositive, we do not address your claims under section 552.101 or section 552.130.

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ch

Ref: ID# 132355

Encl. Submitted documents

cc: Mr. Brit Edwards
P.O. Box 2301
Midland, Texas 79701
(w/o enclosures)