



February 24, 2000

Mr. Gary W. Smith  
Legal Advisor  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2000-0673

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Texas Government Code. Your request was assigned ID#133092.

The City of Baytown Police Department (“the department”) received a request for the “crime statistics” for a Kroger’s Grocery location over a two-year period, an incident report, and contact information regarding the security company responsible for security at the crime scene. You claim that the requested investigative file is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We assume that you have released the remaining requested information. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from disclosure information 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 state that the requested information relates to a pending criminal investigation. Accordingly, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *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). Therefore, we conclude that the department may withhold the information under section 552.108(a)(1). However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Such

basic information refers to the information held to be public in *Houston Chronicle Publishing 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). You have indicated your intent to withhold information regarding the crime victims. The identification and description of a complainant are subject to disclosure as basic information and must be released. *See* Open Records Decision No. 127 (1976).

You assert that the documents presented for our review contain information protected from disclosure by sections 552.101 and 552.130 of the Government Code. The social security numbers in the documents may be confidential if they were obtained or are maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994). Section 552.130 excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state. You must withhold the driver's license numbers under section 552.130 and the social security information under section 552.101.

You have included for our review various documents, including search warrant affidavits, arrest warrants, and search warrants. The warrants appear to have been filed with a court, and therefore, are public and must be released. Information filed with a court is generally a matter of public record and may not be withheld from disclosure. Gov't Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). If the search warrants have been executed, then the department must release the search warrant affidavits, which are public records. Code Crim. Proc. art. 18.01(b).

In summary, you must disclose information contained in court documents. Barring disclosure in court documents, and with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(1). You must withhold social security numbers under section 552.101 and driver's license numbers under section 552.130. We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. 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).

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 Dep't 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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/CHS/cwt

Ref: ID# 133092

Encl. Submitted documents

cc: Mr. Roland B. Darby  
Attorney at Law  
1160 Dairy Ashford, Suite 140  
Houston, Texas 77079  
(w/o enclosures)