



March 7, 2000

Ms. Tenley Aldredge
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2000-0921

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133576.

The Travis County District Attorney's Office received a request for

records indicating the number of times Texas Department of Criminal Justice (TDCJ) Executive Director Wayne Scott has referred an employee assault on a TDCJ prisoner to your office pursuant to Chapter 500, §501.002 of the Texas Government Code and § 500.002 of the Texas Government Code, the date of each referral, the substance of each referral (description of injuries, description of assault, the reason for the report to your office, etc.), the identities of the TDCJ employees involved in each referral, the identities of each TDCJ prisoner involved in each referral, the action you took on each referral and the disposition of each referral.

You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You have supplied a representative sample of the responsive information to this office for review.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in pertinent part

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 Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime

...
(c) This section does not except from [public disclosure] 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 Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that “the Public Integrity Unit (“PIU”) of the Travis County District Attorney’s office is presently conducting an investigation into alleged criminal causes of action arising from employee assaults to TDCJ prisoners – which cases are recorded in the requested case files.” You also indicate that the PIU has determined that release of the subject information would interfere with the detection, investigation and prosecution of the underlying crimes. Based on your representations and our review of the submitted information, we conclude that responsive information may be withheld under section 552.108(a)(1) of the Government Code. *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); Open Records Decision No. 216 (1978).

However, “basic information about an arrested person, an arrest, or a crime” is not excepted from required public disclosure. Gov’t Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally 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). This office summarized the types of information considered to be front page information, as follows:

1. Offense committed
2. Location of crime
3. Identification and description of complainant
4. Premises involved

5. Time of occurrence
6. Property involved
7. Vehicle involved
8. Description of weather
9. Detailed description of offense
10. Names of investigation officers.

Open Records Decision No. 127 (1976).

We note that most of the submitted information consists of “basic information” which is not excepted from disclosure by section 552.108. Also note that “basic information” is not excepted from disclosure by section 552.103. Open Records Decision No. 362 (1983). Basic information regarding each of the reported offenses must therefore be released. Except for basic information, you may withhold the subject information from disclosure under section 552.108 of the Government Code.

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 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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 133576

Encl Submitted documents

cc: Ms. Yolanda Torres
ACLU
North Texas Region
P.O. Box 710536
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(w/o enclosures)