



April 5, 2000

Ms. Lamis A. Safa
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR2000-1308

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133835.

The City of Houston (the "city") received a request for four specific police offense reports as well as any other police reports concerning a certain individual. You explain that the city intends to release offense report numbers 146140799U and 15560799U to the requestor. However, you claim that the rest of the information that is responsive to the request is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.²

Section 552.108(a)(1) excepts from disclosure "[i]nformation 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." 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*,

¹You explain that although the requestor asked for police offense report number 126826299, that number refers to a call for service only, and no offense report was ever filed. We note that the Public Information Act does not require a governmental body to make available information which does not exist, Open Records Decision No. 362 (1983), and does not require a governmental body to prepare new information. Open Records Decision Nos. 605 (1992), 572 (1990), 558 (1990), 555 (1990) 534 (1989); 483 (1987), 430 (1985).

²The submitted information consists of two offense reports: numbers 028636699 and 141572999.

551 S.W.2d 706 (Tex. 1977). You explain that both of the submitted reports pertain to ongoing criminal cases, and that release of the reports would interfere with those cases. Based on your representations, we find that offense report numbers 028636699 and 141572999 are both subject to section 552.108(a)(1).

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. pp.--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). Thus, in regard to the two submitted offense reports, the city must release 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 reports. Although section 552.108(a)(1) authorizes the city to withhold the remaining information in the reports from disclosure, you may choose to release all or part of the reports that is not otherwise confidential by law. *See* Gov't Code § 552.007.³

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

³Because we find that section 552.108(a)(1) is dispositive of this matter, we do not address your other arguments.

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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 133835

Encl: Submitted documents

cc: Ms. Marilyn A. Boss
Paralegal
Roberts, Markel, & Folger, L.L.P.
2500 City West Boulevard, Suite 1350
Houston, Texas 77042
(w/o enclosures)