OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

April 18, 2000

Ms. Pamela Smith
Assistant General Counsel
Office of General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2000-1537

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134548.

The Texas Department of Public Safety (the "department") received a request for information related to an automobile accident. You indicate that you have released the accident report and the front page of the offense report to the requestor.[1] You claim that the remaining information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted representative sample of information.[2]

You assert that the submitted information is excepted from disclosure under Government Code section 552.108 of the Government Code. Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

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[1] *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); Open Records Decision No. 127 (1976).

[2] In reaching our conclusion here, we 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.

prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a) (1). You inform us that the requested information pertains to an ongoing criminal prosecution and a separate investigation related to other possible offenses. Having carefully reviewed your arguments and the submitted information, we agree that the release of the 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 present in active cases). Thus, you may withhold the portions of the submitted information which have not been released. Since section 552.108 is dispositive of the information at issue, we do not address the department's 552.103 claim.

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,

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ch

Ref: ID# 134548

Encl. Submitted documents

cc: Mr. William Featherston
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(w/o enclosures)