OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

June 7, 2000

Mr. Wiley B. McAfee
Legal Advisor
City of Irving Police Department
P.O. Box 152288
Irving, Texas 75015-2288

OR2000-2224

Dear Mr. McAfee:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135911.

The City of Irving (the "city") received requests for the police report on a murder, and the related 9-1-1 tape and "paper call log." The city received another request for much of the same information as well as a missing persons report on a named individual and the arrest warrant affidavit for another named individual. We understand you to seek to withhold in response to the request two incident reports. You seek to withhold these reports under sections 552.101 and 552.108 of the Government Code.

Section 552.108(a)(1) excepts from required public disclosure

> (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:
>
> > (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

You advise that the police reports at issue relate to pending criminal investigations. Based on your representations, and having reviewed the information at issue, we conclude that, except as noted below, you may withhold the reports at issue under section 552.108(a)(1).

Please note that section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other applicable exception to disclosure, the city must release these types of information in accordance with *Houston Chronicle Publishing Company 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). We do not address your section 552.101 claim, because we have permitted you to withhold under section 552.108(a)(1) the material for which you sought protection under the informer's privilege aspect of the former provision. We assume that you have released or will release the requested information for which you have not claimed exceptions to disclosure.

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

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/WMW/ljp

Ref: ID# 135911

Encl. Submitted documents

cc: Ms. Susan Parrott
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(w/o enclosures)