



June 13, 2000

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

OR2000-2308

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# 137300.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information regarding a specific arrest of a named individual and any prior charges for that individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

First, section 552.108(a)(1) of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or 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 assert that section 552.108(a)(1) excepts Incident Report No. 00-07910, the documents responsive to the request for information for a specific arrest, from public disclosure because an ongoing investigation into the crime exists. We therefore believe that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.* Thus, the sheriff's office may withhold Incident Report No. 00-07910.

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *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). Thus, you must release the type of information that is

considered to be front page offense report information, even if that information is not actually on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No.127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).<sup>1</sup> 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.

Because we are able to make a determination under section 552.108, we need not consider your other claimed exceptions. 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).

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<sup>1</sup> We note that you have expressed concern about the release of the witness' identity and statements, as well as implicating common law privacy regarding information within those statements. However, this type of information is not the type of information regarded as basic information under section 552.108(c) and is excepted from public disclosure under section 552.108(a)(1). *See* Open Records No. 127 (1976) (delineating the types of information available to the public as basic information); *see also Houston Chronicle Publ'g Co.*, 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).

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,

A handwritten signature in black ink, appearing to read "Noelle C. Letteri". The signature is fluid and cursive, with the first name being the most prominent.

Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

ncl/nc

Ref: ID# 137300

Encl. Submitted documents

cc: Ms. Dawn Moonan  
Recreation Manager  
Wells Branch Municipal Utility District  
2106 Klattenhoff  
Austin, Texas 78728  
(w/o enclosures)