



June 22, 2000

Mr. Frank Mooney
Chief of Police
Wilmer Police Department
219 East Beltline Road
Wilmer, Texas 75172

OR2000-2397

Dear Mr. Mooney:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137310.

The Wilmer Police Department (the “department”) received a request for all available documents concerning a particular criminal incident. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we find that the submitted information contains documents that appear to have been filed with a court. Information filed with a court is generally a matter of public record and may not be withheld from disclosure. Gov’t Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). We have marked the documents to be released pursuant to section 552.022(a)(17).

Section 552.108 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 inform us that the requested information pertains to a pending case. We therefore believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.*

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), and includes the identification and description of the complainant. However, you assert that none of the information submitted should be released as the release of the documents could lead to acts of violence against the victim and hinder the further prosecution of the case. You further explain that the "defendant in this case has on previous occasions tracked down the victim and caused physical harm to her.

This office has addressed several situations in which special circumstances have been demonstrated allowing a governmental body to withhold front page information. The existence of special circumstances, such as an imminent threat of physical danger as opposed to a generalized and speculative fear of harassment or retribution, may make public disclosure of information an unwarranted invasion of personal privacy. *See* Open Records Decision No. 169 (1977). Based on your arguments and our review of the submitted documents, we find that you have shown the existence of special circumstances in this instance. Thus, we conclude that you have shown special circumstances sufficient to overcome the presumption of public access to the complainant's address. Therefore, the department may withhold the complainant's address from public disclosure. We find that the remaining front page information must be released.¹ 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 were able to make a determination under section 552.108 we do not address your other arguments against disclosure.

In summary, the department must release the court filed documents under section 552.022(a)(17). The department may withhold the remaining documents under section 552.108(a)(1). However, the department must release the basic front page information to the requestor pursuant to section 552.108(c), except for the complainant's address, which the department may withhold pursuant to Open Records Decision No. 169 (1977).

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

¹Generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

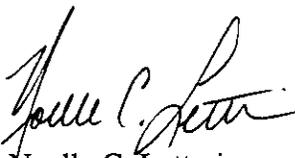
filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not 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,



Noelle C. Letteri
Assistant Attorney General
Open Records Division

ncl/nc

Ref: ID# 137310

Encl. Submitted documents

cc: R.W. Knight
P.O. Box 7314
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(w/o enclosures)