



August 7, 2000

Mr. John M. Knight  
Assistant City Attorney  
Office of the City Attorney  
P.O. Box 2000  
Lubbock, Texas 79457

OR2000-2987

Dear Mr. Knight:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 137874.

The City of Lubbock (the "city") received a request for a copy of a follow-up report for a building inspection conducted by the city's Environmental Inspections Department. You claim that the 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.

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). 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 section 552.108 is applicable. *See* Gov't Code §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that, in the instant case, the investigation is open; additionally, you inform this office that if the investigation by the Environmental Inspections Department reveals possible criminal conduct, the city intends to refer the case for prosecution. *See* Open Records Decision No. 493 at 2 (1988) (construing application of section 552.108 predecessor to administrative agencies). Because the investigation is pending, we believe that the release of the information would interfere with the detection, investigation, or prosecution of crime. Thus, you may withhold most of the information under section 552.108(a)(1).

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 Publishing 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 basic information about this city ordinance violation. 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 section 552.108 is dispositive, we do not address your claimed exception under section 552.103.<sup>1</sup>

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

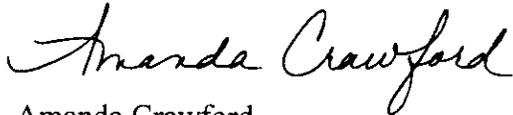
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<sup>1</sup>We note that generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

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 cursive script that reads "Amanda Crawford".

Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/er

Ref: ID# 137874

Encl. Submitted documents

cc: Mr. Michael T. Martin  
1308 A-Avenue Q  
Lubbock, Texas 79401-3818  
(w/o enclosures)