



September 21, 2000

Mr. Wyman Hopkins  
Administrative Sergeant  
City of Rosenberg Police Department  
2120 Fourth Street  
Rosenberg, Texas 77471

OR2000-3655

Dear Mr. Hopkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140982.

The City of Rosenberg Police Department (the “department”) received a request for a police report. You claim that the requested information is excepted from disclosure under sections 552.108(a)(1) and 552.130(a)(2) of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

First, you claim the body of the report is protected from disclosure under section 552.108(a)(1) of the Government Code. Under section 552.108(a)(1) of the Government Code, “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime” need not be disclosed if “release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). You state that the requested information relates to a pending criminal investigation. Accordingly, we find that release of the requested 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 that are present in active cases), and we conclude that the department may withhold some of the information contained in the body of the report under section 552.108(a)(1). We note, however, that section 552.108 does not except basic information about an arrested person, an arrest, or a crime from the disclosure requirements of the Public Information Act. Gov’t Code § 552.108(c). We believe such basic information refers to the

information held to be public in *Houston Chronicle*, including a detailed description of the offense. 531 S.W.2d at 177; *see* Open Records Decision No. 127 (1976). Thus, with the exception of the basic front page offense information, you may withhold the requested information from disclosure based on section 552.108(a)(1). Based on this finding, we need not reach the issue of whether certain information contained within the report is also excepted from public disclosure under section 552.130 of the Government Code.

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).

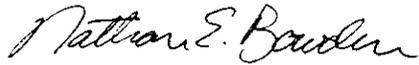
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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 "Nathan E. Bowden".

Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/cwt

Ref: ID# 140982

Encl. Submitted documents

cc: Ms. Petra Martinez  
1035 Miles Street, #1  
Rosenberg, Texas 77471  
(w/o enclosures)