Office of the Attorney General · State of Texas
John Cornyn

October 4, 2000

Mr. Kevin E. Oliver
Cooper & Scully
Founders Square
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR2000-3816

Dear Mr. Oliver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140117.

The City of Coppell (the "city"), which you represent, received a request for a "listing of all police calls/responses/reports for 1999/2000," for a named location. You indicate that you will release a call log and the "front page" information from a specified incident report responsive to this request. You claim that the balance of the requested information is excepted from disclosure under Government Code section 552.101 in conjunction with provisions of the Family Code, and by section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You contend that the responsive information is made confidential by section 58.007 of the Family Code. This statute makes law enforcement records of juvenile conduct that occurred on or after September 1, 1997 confidential. However, in this case the accused was twenty-three years old at the time of the offense, and there is no indication that the submitted law enforcement records concern any juvenile conduct. We conclude that the subject report is not made confidential by section 58.007 of the Family Code. You also contend that the submitted information is made confidential by section 261.201 of the Family Code. This statute governs release of information related to reports of child abuse or neglect. The subject offense report alleges an assault by an adult apparently on another adult. There is no indication of the age of the alleged victim. There is no indication of an investigation relating to any conduct directed toward a child. We consider the subject investigation not to be related to an investigation of child abuse or neglect. The submitted information is, therefore, not made confidential by section 261.201 of the Family Code.

You also contend that the responsive information is excepted by section 552.108 of the Government Code. In pertinent part this section provides:

> (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
>
> (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
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> . . .
>
> (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Section 552.108(a)(1) excepts information that relates to a pending or ongoing investigation or prosecution. *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); Open Records Decision No. 216 (1978). You relate that the investigation is ongoing. Further, the report indicates that the matter has been referred to the Dallas County district attorney for prosecution. We conclude that the submitted information is excepted by section 552.108(a)(1).

Note that "basic information" is not excepted by this section. Gov't Code 552.108(c). We believe such basic information refers to the "front page" 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). Open Records Decision No. 216 (1978). In Open Records Decision No. 127 (1976) this office summarized the types of information considered to be basic information. This information includes a detailed description of the offense, time and location of the crime, identity of persons arrested, identity of the complainant and identity of the investigating officers. You indicate that you have released this information. As you have released "basic" information, the department may withhold the remaining responsive information from 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).

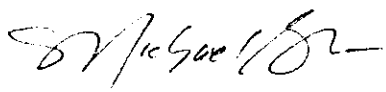
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 140117

Encl: Submitted documents

cc: Mr. Brian Wolff
929 Brentwood Drive
Coppell, Texas 75019
(w/o enclosures)