



April 16, 2001

Ms. Leticia D. McGowan
Dallas Public Schools
3700 Ross Avenue, Box 74
Dallas, Texas 75204-5491

OR2001-1510

Dear Ms. McGowan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146058.

The Dallas Independent School District (the "DISD") received a request for "all lists, police/security reports . . . that would detail and/or outline items, assets and property of DISD that have been stolen . . . over the last five years." In addition, the requestor seeks a copy of any open records requests made for similar information during the last year. You state that you will release all of the requested information except for one document concerning a criminal investigation. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

- (a) {i}nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime.

This office has held that records of criminal investigations conducted by governmental agencies may be withheld from disclosure under limited circumstances. For example, records that otherwise qualify for the section 552.108 exception, such as documentary evidence in a police file on a pending case, do not necessarily lose that status while in the

custody of an agency not directly involved with law enforcement. Open Records Decision No. 272 at 1-2 (1981). Similarly, in construing the statutory predecessor to section 552.108, this office concluded that if an investigation by an administrative agency reveals possible criminal conduct that the agency intends to report or already has reported to the appropriate law enforcement agency, then section 552.108 will apply to the information gathered by the administrative agency if its release would unduly interfere with law enforcement. Open Records Decision No. 493 at 2 (1988) (construing predecessor statute).

You explain that the responsive document concerns criminal conduct that has been reported to the appropriate law enforcement officials but that the statute of limitations had expired for the conduct originally investigated. You further explain that, because the DISD has received information of possible additional criminal violations concerning this vendor, the investigation is ongoing, the document is relevant to this investigation, and if criminal activity is found, the DISD will submit the information to the Dallas County District Attorney's Office for criminal prosecution. As the proper custodian of the information, you have invoked section 552.108 and shown 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); *see also* Open Records Decision No. 493 (1988). Therefore, we conclude that the requested information may be withheld 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 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, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(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.

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 Hadassah Schloss at 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/DBF/seg

Ref: ID# 146058

Encl. Submitted documents

cc: Mr. John D. Taylor
2204 Stephens Street
Vernon, Texas 76384
(w/o enclosures)