



April 25, 2001

Ms. Lisa M. Salinas
Custodian of Records
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2001-1655

Dear Ms. Salinas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146405.

The Baytown Police Department (the "department") received a request for copies of all reports related to an attempted murder incident, any associated witness statements, any associated police officer notes, and printouts of all service calls and/or complaints made to the department during the period of July 1, 2000 through September 21, 2000 for a specified area. You claim that the submitted information, consisting only of the attempted murder incident report, is excepted from disclosure pursuant to sections 552.108 and 552.130 of the Government Code. We assume that you have provided the requestor with any associated witness statements or police officer notes that may exist, as well as any printouts of service calls and/or complaints made to the department during the period of July 1, 2000 through September 21, 2000 for the specified area to the extent those items of information exist. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information it must release information as soon as possible under the circumstances to the extent that it exists). We have considered the exceptions you claim and have 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 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 agree that release of the information “would interfere with the detection, investigation, or prosecution of crime.” *Id.* Accordingly, you may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code. However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *See* 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). You must release basic information pursuant to *Houston Chronicle*.¹ In light of our conclusions under sections 552.023 and 552.108, we need not address your section 552.130 claim.

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

¹ Basic information includes the identity and description of the complainant. *See* Open Records Decision No. 127 (1976). Typically, the identity and description of a complainant who is a victim of alleged sexual assault must be withheld from disclosure pursuant to section 552.101 of the Government Code in conjunction with the common law right to privacy. *See Industrial Foundation v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); *see also* Open Records Decision Nos. 393 (1983), 339 (1982). However, since the requestor here is an authorized representative of the victim, the requestor has a special right of access to such information. *See* Gov’t Code § 552.023(a) (providing that person or person’s authorized representative has limited special right of access to information when only basis for excepting information from disclosure is protection of person’s privacy interest); *see also* Open Records Decision No. 481 (1987). Therefore, you must release to the requestor information that identifies the victim, including the victim’s driver’s license number. If the department receives another request for the same information, the department should request from this office another decision concerning the required public release of the information. *See* Gov’t Code § 552.301(a).

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,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/RJB/seg

Ref: ID# 146405

Encl. Submitted documents

cc: Ms. Kathleen Kokernot
400 West Jasper
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(w/o enclosures)