



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

January 14, 2003

Ms. Amanda McDowell
Acting City Secretary
City of Burleson
141 West Renfro
Burleson, Texas 76028-4261

OR2003-0282

Dear Ms. McDowell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174958.

The City of Burleson (the "city") received a request for information relating to an assault. You claim that the submitted 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.

We first note that the submitted documents include information that is subject to section 552.022 of the Government Code. Section 552.022(a) enumerates categories of information that are public information and not excepted from required disclosure under chapter 552 of the Government Code unless they are expressly confidential under other law. One such category is "information that is also contained in a public court record[.]" Gov't Code § 522.022(a)(17). We have marked three of the pages in the submitted documents that are indicated to be copies of court-filed documents. This information is subject to required release except to the extent it is expressly confidential under other law. You assert section 552.108 of the Government Code in support of withholding this information. Section 552.108, however, is a discretionary exception within chapter 552 of the Government Code and not "other law" that makes information confidential. Accordingly, none of the information in the court-filed documents may be withheld under section 552.108.

We turn now to the remaining submitted information. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested

information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested information "relates to a case still pending in the Johnson County County Attorney's Office and presumptively would interfere with the detection, investigation and prosecution of crime." Based upon your representations and our review of the submitted information, we agree that the public release of the submitted 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). Thus, the city may withhold this information from disclosure based on 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.

Finally, we note that the submitted documents contain the requestor's social security number and driver's license number. This information may not be subject to release to the public in some circumstances. *See* Gov't Code § 552.101, 552.130; Open Records Decision No. 622 (1994). However, the requestor in this instance has a special right of access to this information. Gov't Code § 552.023. Because this information may be confidential with respect to the general public, if the city receives a request for this information from an individual other than the person whom the information concerns, the city should again seek a decision from this office.

To summarize: the city must release the documents we have marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the city may withhold the remaining information under section 552.108(a)(1).

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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/sdk

Ref: ID# 174958

Enc: Submitted documents

c: Ms. Ashley Ogle
1105 Garden Ridge
Burleson, Texas 76028
(w/o enclosures)