



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2004

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law & Police Division  
City of Dallas  
1400 South Lamar Street #300A  
Dallas, Texas 75215-1801

OR2004-6280

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 206021.

The Dallas Police Department (the "department") received a request for "a copy of the investigation report of the police-involved shooting of [two named suspects] at the Highland Hills apartment complex April 18." The requestor also seeks "arrest reports, dating back to January 1, 2003, that name [two named individuals] as suspects of crimes." You indicate that the department released with certain redactions the front page of the requested investigation report of the police shootings. You claim that the remaining responsive information is excepted from disclosure under sections 552.101, 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You raise section 552.108(a)(1) for all of the submitted information except for the front page information you say you redacted based on section 552.130. 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 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 pending criminal investigation. Based upon this representation, we conclude that the release of the information would interfere with the detection, investigation, or prosecution of crime, but with the following exceptions.

First, we note that section 552.108 does not apply to information normally found on the front page of an offense report. *See generally* Gov't Code § 552.108(c); *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. 127 (1976). As mentioned above, you indicate that you released with redactions the basic information in the report for Service No. 020895-N. However, included in the information you submitted for our review is another report, the report for Service No. 020847-N. Section 552.108 does not apply to the basic information in this report and it must also be released to the requestor. *See id.*

Next, we note that the submitted information includes one document titled “DPD Employee Database Search Results,” and another document titled, “Dallas Police Department Internal Affairs Division Officer’s Resume.” Section 552.108 does not apply to either of these documents. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.) (law enforcement exception not intended to shield employment information unrelated to the actual enforcement of the law); Open Record Decision Nos. 562 at 8 (1990) (law enforcement exception inapplicable to general personnel information such as officer’s age, law enforcement background, previous experience, and employment); 361 (1983) (information about complaints against peace officers is subject to release); 208 (1978) (law enforcement exception inapplicable to information concerning complaints filed against officer).

The officer personnel information includes the officer’s social security number, home address and home phone number. Section 552.117(a)(2) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure. Thus, the department must withhold from disclosure the officer’s social security number, home address and home phone number based on section 552.117(a)(2).

In addition, the personnel information includes the officer’s employee number. You state that this number is used as a city credit card account number. Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. The department must, therefore, withhold the employee number under section 552.136.

You raise section 552.130 with regard to a Texas license plate number. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. We find that you must withhold the license plate number under section 552.130.

In summary, with the exception of the officer personnel information and basic information in the two offense reports, the department may withhold the information from the requestor based on section 552.108(a)(1). The department must withhold from disclosure the officer's social security number, home address and home phone number based on section 552.117(a)(2); the license plate number under section 552.130; and the officer's employee number under section 552.136.

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 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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/seg

Ref: ID# 206021

Enc: Submitted documents

c: Ms. Margarita Martin-Hidalgo  
The Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)