



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2006

Mr. Steven D. Monte
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2006-09400

Dear Mr. Monte:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 258087.

The Richardson Police Department (the "department") received a request for thirty one specified incident reports. You indicate that the requestor has subsequently withdrawn her request for any incident reports which involve sexual assault or child abuse claims. Accordingly, you have submitted twenty six incident reports which you state are responsive to this request. You indicate that the department has released basic information from the responsive incident reports but claim that the remainder of the reports is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted reports.

Initially, the requestor indicates that incident report number 03-028017, which was not submitted for our review, did not involve a sexual assault or child abuse claim. You make no representation as to the claim in this incident report. Therefore, if incident report number 03-028017 did involve a sexual assault or child abuse claim, it is not responsive to this request and it need not be released. However, if this incident report did not involve a sexual assault or child abuse claim, it is responsive and must be released to the requestor, to the extent the report existed on the date the department received this request. *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).*

Next, we address your arguments for the submitted reports. Section 552.108(a)(1) of the Government Code 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 submitted reports relate to ongoing criminal investigations. Based upon this representation and our review, we conclude that the release of some of the submitted reports, which we have marked, 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). Therefore, with the exception of basic information, which you indicate has been released, the department may withhold the reports we have marked under section 552.108 of the Government Code.

With respect to the remaining reports, however, we note that the statute of limitations for the offenses listed in these reports has expired. *See* Crim. Proc. Code art. 12.01 (listing time limits for presentation of felony indictments), .02 (indictment or information for misdemeanor offense may be presented within two years from date of commission of offense, and not afterward). You do not explain how the remaining reports pertain to pending criminal cases. We therefore find you have failed to reasonably explain how release of the remaining reports would interfere with law enforcement. Accordingly, the department may not withhold the remaining reports pursuant to section 552.108 of the Government Code.

We note, however, that some of the remaining reports contain information that is excepted from disclosure under sections 552.130 and 552.147 of the Government Code. Section 552.130 provides in pertinent part:

(a) Information is excepted from the requirements 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 have marked Texas motor vehicle record information that the department must withhold under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. We have marked social security numbers that the department must withhold under section 552.147 of the Government Code.¹

In summary, if incident report number 03-028017 did involve a sexual assault or child abuse claim, it is not responsive to this request and it need not be released. However, if this incident report did not involve a sexual assault or child abuse claim, it is responsive and must be released to the requestor, to the extent the report existed on the date the department received this request. The department must withhold the Texas motor vehicle record information and social security numbers we have marked under sections 552.130 and 552.147 of the Government Code, respectively. With the exception of basic information, which you indicate has been released, the department may withhold the reports we have marked under section 552.108 of the Government Code. The remaining information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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,



James A. Person III
Assistant Attorney General
Open Records Division

JAP/dh

Ref: ID# 258087

Er.c. Submitted documents

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(w/o enclosures)