



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2008

Ms. Susan V. Case
Administrative Assistant
Gainesville Police Department
201 Santa Fe Street
Gainesville, Texas 76240-2155

OR2008-07525

Dear Ms. Case:

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# 311499.

The Gainesville Police Department (the "department") received two requests for the arrest records of one of the requestors for a specified time period.¹ You state the department will release most of the requested information to the requestors. You claim that a portion of the submitted report is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted report.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). 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 id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted incident report relates to a pending criminal prosecution. Based on this representation and our review of the submitted report, we conclude that the release of this 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*

¹The department sought and received a clarification from the second requestor, the attorney for the first requestor, who indicated that he and his client only seek his client's arrest records from 1993 to the present. You also state that the second requestor indicated that "the two requests should be treated as one," and that he and his client did not require two sets of the requested documents.

curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, as you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes certain information about the arrestee, as well as a "detailed description of the offense." *See Houston Chronicle*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note that you have marked all pages of the report except for the first page as information you seek to withhold under section 552.108. However, the first page of the submitted report contains only a few of the types of basic information that are required to be released. Accordingly, the department must release the basic information from the report even though that information is not contained on the front page.² The department may withhold the remaining information at issue 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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

²We note that the department may generally withhold a living person's social security number without seeking a ruling from this office under section 552.147. Gov't Code § 552.147. In this instance, the social security number belongs to the first requestor who is the second requestor's client. Thus, the requestors, as the individual at issue and his authorized representative, have a right of access to the arrestee's social security number. *See id.* § 552.023(a) ("a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

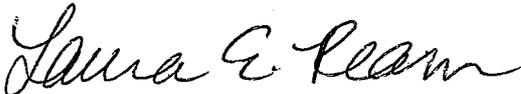
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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 challenge 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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 311499

Enc. Submitted documents

c: Mr. John C. Hendrik
c/o Ms. Susan V. Case
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Gainesville, Texas 76240-2155
(w/o enclosures)