



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 24, 2008

Ms. Tyffany M. Howard  
Deputy City Attorney  
City of Temple  
2 North Main Street, Suite 308  
Temple, Texas 76501

OR2008-10049

Dear Ms. Howard:

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# 316987.

The Temple Police Department (the "department") received a request for a specified incident report and any documents signed by the requestor during a specified time period. You state that the department has released basic information. *See* Gov't Code § 552.108(c) (stating that basic information about arrested person, arrest, or crime may not be withheld under Gov't Code § 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the remaining information in the submitted incident report is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted incident report.

Initially, we note that you have only submitted the requested incident report. Therefore, to the extent that information responsive to the request for any documents signed by the requestor during a specified time period exists, we assume that it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your claim under section 552.108 for the submitted incident 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[.]” *Id.* § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) 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 inform us that the submitted incident report relates to a pending criminal prosecution. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the submitted incident report. *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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). Therefore, with the exception of basic information, which you state you have released, the department may withhold the submitted incident report pursuant to section 552.108(a)(1) of the Government Code.<sup>1</sup>

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). If the governmental body does not file suit over 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 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,

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<sup>1</sup>We note that you have the discretion to release all or part of the submitted incident report that is not otherwise confidential by law. Gov’t Code § 552.007.

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# 316987

Enc. Submitted documents

c: Ms. Bethanie Naylor  
713 East Avenue D  
Temple, Texas 76501  
(w/o enclosures)