



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 23, 2008

Mr. Samuel D. Hawk
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2008-14472

Dear Mr. Hawk:

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# 328929.

The Dallas Police Department (the "department") received a request for a specified offense report. You claim that some of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we must address the applicability of section 552.008 of the Government Code to the requested information. Section 552.008(b) provides in part as follows:

[A] governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under [the Act] for legislative purposes.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Gov't Code § 552.008(b). The requestor is a legislative aide for Senator Royce West, District 23 (Dallas County); however, the requestor does not state, and it is not otherwise clear to this office, that his request was made for legislative purposes. Accordingly, if Senator West made this request for legislative purposes, then the department must make the submitted information available to him in accordance with section 552.008. *See id.* We note that the release of this information to Senator West under section 552.008 does not waive or affect the confidentiality of the information for the purposes of state or federal law or waive the department's right to assert exceptions to required public disclosure of this information in the future. *See id.* But if this request for information was not made for legislative purposes, then the submitted information need not be released under section 552.008, and we will consider your arguments against its public disclosure.

You assert that some of the submitted information is excepted under section 552.108 of the Government Code. 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." 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), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to pending criminal investigations or prosecutions. Based on this representation, 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, if the information is not subject to release pursuant to section 552.008, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

To conclude, if the request was made for legislative purposes in accordance with section 552.008 of the Government Code, then the department must make the submitted information available to the requestor in its entirety. Otherwise, the department may withhold the information marked under section 552.108 of the Government Code, but must release the remaining information.

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).

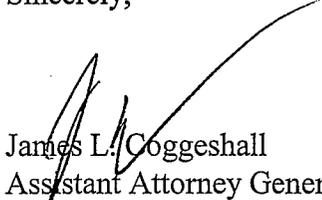
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ma

Ref: ID# 328929

Enc. Submitted documents

c: Mr. Eric Dominguez
Legislative Aide
Senator Royce West
c/o Mr. Samuel D. Hawk
Assistant City Attorney
City of Dallas
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(w/o enclosures)