



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 16, 2008

Mr. Jason Day  
City Attorney  
Royse City  
P.O. Box 638  
Royse City, Texas 75189

OR2008-17116

Dear Mr. Day:

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# 330428.

The City of Royse City (the "city") received a request for a particular police report, including photographs. The city states it has released some of the responsive information to the requestor. You claim that the submitted information 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 information.

Section 552.108 of the Government Code provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (2). As a general rule, section 552.108(a)(1) and section 552.108(a)(2) are applicable to two mutually exclusive types of law enforcement information. Section 552.108(a)(1) is applicable if release of the information would interfere with a pending criminal case. Section 552.108(a)(2) is applicable only if the information is related to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You have marked the information that the city seeks to withhold under section 552.108. You explain that the marked information is related to a police investigation of a possible aggravated assault charge. You state that “[t]here has not been a final disposition of this case.” You also state that release of the marked information would interfere with an ongoing case. Thus, we understand you to raise section 552.108(a)(1) for this information. Based on your representations and our review of the information at issue, we conclude that section 552.108(a)(1) is generally applicable to that information. *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).

We note, and you acknowledge, that 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See Open Records Decision No. 127* (1976) (summarizing types of information considered to be basic information). We note that you have essentially marked the entire narrative portion of the submitted report as information you seek to withhold under section 552.108. However, the remaining portion of the report does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released. Therefore, we determine that the city must release a sufficient portion of the narrative section of the submitted report to encompass a detailed description of the offense. Accordingly, with the exception of a detailed description of the offense, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Finally, you assert that a portion of the remaining information is confidential under section 552.130 of the Government Code, which excepts from disclosure information relating to a Texas motor vehicle driver's license and information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. Thus, you must withhold the information you have marked under section 552.130 of the Government Code.

In summary, with the exception of a detailed description of the offense, the city may withhold the information you have marked under section 552.108 of the Government Code. The city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink, appearing to read "Emily Sitton". The signature is stylized and cursive.

Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/eeg

Ref: ID# 330428

Enc. Submitted documents

c: Requestor  
(w/o enclosures)