



April 13, 1999

Mr. Dan T. Saluri  
Assistant City Attorney  
City Attorney's Office  
Office of the Police Legal Advisor  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR99-1012

Dear Mr. Saluri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123859.

The City of Lubbock (the "city") received a request for information concerning the detention, arrest, and other matters in connection with a particular inmate. You have released some of the requested information; however, you contend that the remaining requested information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108 excepts from required public disclosure:

(a) Information 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;
- (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; or

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We have reviewed your section 552.108(b)(1) arguments and conclude that release of most of the information in Attachment 2 would interfere with law enforcement. We have marked the information that you must release; you may withhold the remainder of Attachment 2 under section 552.108(b)(1). Moreover, except for basic information, you may withhold Attachment 4 under section 552.108(a)(2) as the investigation of the offense did not result in a conviction or deferred adjudication.<sup>1</sup> Section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing 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). We note that you have the discretion to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

You have submitted Attachment 3, which is a custodial death report. This office has concluded that Part I of a custodial death report is public information in accordance with article 49.18(b) of the Code of Criminal Procedure. *See* Open Records Decision No. 521 (1989). Parts II through V of the report, including attachments compiled and attached to the custodial death report, are not public. *See id.* The documents attached to the report include an autopsy report which is normally expressly made public by statute. Code Crim. Proc. art. 49.25, § 11. If a governmental body receives a request for information maintained as part of its ordinary responsibilities, the documents may be withheld only if one of the Public Information Act's exceptions or another specific law protects them. ORD 521 at 7. However, in this instance, the autopsy report is attached to the custodial death report and, therefore, must be withheld as part of the report. *Id.* The city must release Part I of the custodial death report.

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<sup>1</sup>Generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

Lastly, you state that the request for written legal opinions relating to policy or specific incidences in connection with the incarceration of persons for disorderly conduct “cannot be complied with for [t]he reason that it fails to establish a date or time period for which the records are requested.” Numerous opinions of this office have addressed situations in which a governmental body has received either an “overbroad” written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 at 8-9 (1990) states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

*See* Gov’t Code § 552.222(b) (governmental body may ask requestor to clarify request if request for information is unclear). Therefore, in response to the request at issue here, the city must make a good-faith effort to relate the request to information in the city’s possession and must help the requestor to clarify his request by advising him of the types of information available. However, a request for records made pursuant to the Public Information Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 123859

Encl: Submitted documents

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(w/o enclosures)