OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

August 21, 2000

Mr. Jason C. Marshall
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

OR2000-3185

Dear Mr. Marshall:

You have asked whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 139972.

The City of DeSoto (the "city"), which you represent, received a request for seven categories of information concerning citation number 112817. You assert that information responsive to items 1 and 2 is excepted from disclosure based on sections 552.103 and 552.108 of the Government Code. We assume that you have released the other five categories of requested information. The information requested for item 1 is all notes, records, and log files made by the officer in regards to the issuance of citation number 112817. The information requested for item 2 is all calibration and maintenance records for the radar used by the officer in issuing the citation. You have submitted a notice to appear and the officer's notes. Because you have not submitted information responsive to item 2 as required by section 552.301(e)(1)(D), you must release the information. Gov't Code § 552.302.

Next, we address your claim as to item 1. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. We therefore believe that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.*

However, 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 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). Thus, with the exception of the basic front page offense and arrest

information, you may withhold the requested information from disclosure based on section 552.108(a)(1).[1] We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, 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 statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

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.

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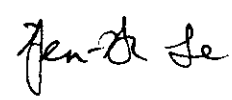
[1]Generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/cwt

Ref: ID# 139972

Encl. Submitted documents

cc: Mr. W. Alan Sosbe
920 Balkan
Lancaster, Texas 75134
(w/o enclosures)