



September 12, 2000

Lieutenant Arturo Valdez
McAllen Police Department
1501 Pecan Boulevard
McAllen, Texas 78501

OR2000-3492

Dear Lieutenant. Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138807.

The McAllen Police Department (the "department") received a written request for certain offense reports. Specifically, the requestor seeks the offense report pertaining to a particular burglary of a vehicle, all offense reports in which a named individual is identified as "the reporting person or victim," and all offense reports pertaining to an identified address within the past ten years. In your brief to this office you identify six specific offense reports, which you contend are excepted from required public disclosure pursuant to section 552.108 of the Government Code: Case 00-22314, 99-11772, 96-4016, 99-40644, 99-17677, and 98-1527.¹ You indicate that the department has released all "basic information" from these six offense reports in accordance with section 552.108(c) and *Houston Chronicle Publishing Company 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).

Section 552.108(a)(1) of the Government Code excepts from required public 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." Based on your representation that the offense reports at issue relate to pending criminal investigations, we conclude that you have met your burden of demonstrating the applicability of section 552.108(a)(1) to the six

¹Because you do not contend that any of the remaining responsive offense reports are excepted from public disclosure, we assume the department has released those reports to the requestor in their entirety. If the department has not released all of the remaining offense reports, it must do so at this time. See Gov't Code §§ 552.301(e)(1), .302.

offense reports listed above. The department therefore may withhold the requested offense reports at this time pursuant to section 552.108(a)(1).

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).

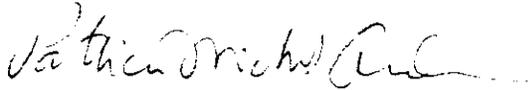
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Department of Public 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 the General Services Commission 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,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/RWP/ljp

Ref: ID# 138807

Encl. Submitted documents

cc: Mr. Scott Kemp
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(w/o enclosures)