Office of the Attorney General · State of Texas
John Cornyn

April 2, 2001

Mr. Charles M. Allen, II
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2001-1297

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145482.

The Richardson Police Department (the "department") received a written request for a particular incident report. You have apparently released some responsive information to the requestor. You contend, however, that the remaining requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code.

You contend that the incident report is excepted from public disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from 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 information at issue relates to a pending criminal investigation, we conclude that in this instance you have met your burden of demonstrating the applicability of section 552.108(a)(1). The department therefore may withhold the requested information pursuant to section 552.108(a)(1) of the Government Code, with the following exception.

Section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Basic information includes, among other things, a *detailed* description of the offense. *See* Open Records Decision No. 127 at 3 (1976). Accordingly, the department must release all basic information as outlined in Open Records Decision No. 127, including a detailed description of the offense as contained in the "Narrative" found on page

five of the incident report. The remaining portions of the incident report may be withheld at this time pursuant to section 552.108(a)(1) of the Government Code.[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 Hadassah Schloss at the General Services Commission at 512/475-2497.

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[1]Because we resolve your request under section 552.108, we need not address the applicability of the other exceptions you raised.

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,

Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/RWP/seg

Ref: ID# 145482

Encl. Submitted documents

cc: Mr. James J. Denardo
11166 Ables Lane, Studio B
Dallas, Texas 75229-4537
(w/o enclosures)