



August 23, 2001

Ms. Karen H. Brophy
Brown & Hoffmeister, L.L.P.
4300 Bank One Center
1717 Main Street
Dallas, Texas 75201-4335

OR2001-3740

Dear Ms. Brophy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151026.

The Town of Flower Mound (the "town"), which you represent, received a request for certified copies of all police and court records pertaining to a specified incident that occurred at the town's police department around July 31, 2000. You state that you have released the first three pages of the submitted offense report to the requestor. You claim, however, that the remaining portions of the submitted information are excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

We note at the outset that you did not submit to us any information that is responsive to the request for a certified copy of court records. We conclude that, to the extent that you maintain such information, you must provide it to the requestor at this time. *See Gov't Code* §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

We next address your claim that the submitted information which has not been released to the requestor is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108 provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted

from disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) of the Government Code as an exception to disclosure of requested information must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement or prosecution. *See* Gov't Code §§ 552.108(a), (b), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information resulted in a criminal case which is pending prosecution in the town's municipal court on the charge of assault. Therefore, we conclude that release of the remaining portions of the submitted information "would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a). Accordingly, you may withhold the submitted information which you have not released to the requestor pursuant to section 552.108(a)(1) of the Government Code. However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *See* 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). Therefore, you must release all basic information contained within the submitted information which has not been released to the requestor pursuant to *Houston Chronicle*. *See* Open Records Decision No. 127 (1976) (summarizing the types of basic information that must be made available to the public).

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

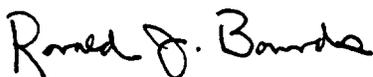
body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may 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.

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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 151026

Enc. Submitted documents

cc: Ms. Laura Fleming
1537 Live Oak Drive
Lewisville, Texas 75067-5829
(w/o enclosures)