



January 30, 2002

Ms. Deanie Bostick-Martin
Records System Supervisor
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2002-0443

Dear Ms. Bostick-Martin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 157948.

The Lubbock Police Department (the "department") received two written requests for all records pertaining to five specified case numbers. You indicate that the department will make some responsive information available to the requestor. You contend, however, that the remaining requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

You first contend that four of the offense reports, Nos. 00-027533, 00-027708, 00-028153, and 00-054362, are excepted from public disclosure pursuant to section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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." Section 552.108(a)(1) protects information pertaining to a pending criminal investigation or prosecution because the release of such information presumptively would interfere with the detection, investigation, or prosecution of crime. *See 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). You state that these four offense reports pertain to criminal investigations that have been referred to the Lubbock County Criminal District Attorney's Office for prosecution. We therefore conclude that the department may withhold most of the information contained in these offense reports pursuant to section 552.108(a)(1) of the Government Code.¹

¹We note, however, that an executed search warrant affidavit is specifically made public under article 18.01(b) of the Code of Criminal Procedure.

You next contend that the remaining offense report, No. 01-044503 is excepted from public disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from required public disclosure “[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . 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.” Based on your representations and our review of this offense report, we conclude that the department may withhold most of the information contained in Report No. 01-044503 pursuant to section 552.108(a)(2) of the Government Code.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Because you have raised no other exception to disclosure, the department must release these types of information from the five offense reports, including a *detailed* description of each offense, in accordance with *Houston Chronicle*. For your convenience, we have attached to this ruling a list of the types of “basic information” that must be released from each of the requested offense reports.

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).

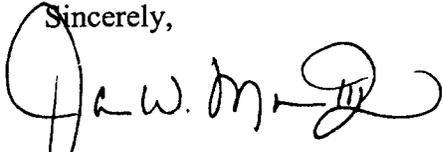
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/RWP/sdk

Ref: ID# 157948

Enc: Submitted documents
Attachment

c: Mr. Donald Banks
7920 Beltline Road
Dallas, Texas 75240
(w/o enclosures, w/attachment)