



July 16, 2002

Mr. Noble D. Walker, Jr.
Scott, Walker, Bench & Littlefield
P.O. Box 1353
Greenville, Texas 75403-1353

OR2002-3871

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your requests were respectively assigned ID# 165729 and ID# 165730.

The City of Greenville (the "city"), which you represent, received two requests for information from the same requestor. The requests collectively seek "a copy of the police report" on two separate named individuals. The city has advised this office that the information responsive to these requests consists of the offense report for case number 2002-00006657 and the offense report for case number 2002-00006699.¹ You claim that this information, in whole or in part, is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.²

¹ The initial request in each instance asked for "the police report" on a named individual. The city requested clarification from the requestor. See Gov't Code § 552.222. On July 10, 2002, the city informed this office that the requestor had clarified the requests and that the requests seek the above-referenced reports. This decision is therefore limited to these two reports and does not address the remaining submitted information, which is non-responsive.

² You made separate requests for a decision from this office with respect to each of the two requests. However, because the two reports that are responsive to the requests pertain to the same series of events, because these reports contain overlapping information, and because you have made the same arguments for withholding this information, we address your separate requests together in this decision.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, a governmental body claiming section 552.108 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. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

With respect to the matter to which both reports relate, you explain that the “matter is presently under criminal investigation for presentation to the District Attorney for indictment.” We thus understand you to represent, with respect to both reports, that the matter is under active investigation and/or prosecution. The city has thus demonstrated that the release of the reports at issue 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) (court delineates law enforcement interests that are present in active cases). We thus conclude that, except as provided below, the city may withhold the requested information pursuant to section 552.108(a)(1) of the Government Code.

Please note, however, that “basic information” of the type normally found on the front page of an offense report is not excepted from disclosure under section 552.108, and is generally considered public. *See generally* Gov’t Code § 552.108(c); *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); Open Records Decision No. 127 (1976). The city, therefore, must release from the reports at issue the types of information that are considered to be front page offense report information. Such information must be released whether or not it is actually located on the front page of the report. *See* Open Records Decision No. 127 at 4 (1976) (listing types of basic “front page” information in offense report that are generally public under *Houston Chronicle*).

We emphasize that the front page information that is subject to release from each report includes an “[i]dentification and description of [the] complainant” as well as a “[d]etailed description of [the] offense.” *See id.* Thus, although the witness information in the reports at issue is not front page information and may be withheld, the identification and description of the complainant in each report must be released. This information must be released whether or not the person may also have been a witness or victim. Similarly, while much of the narrative information in each report that you have marked for withholding is not basic front page information and therefore may be withheld, the city must nevertheless release sufficient information from each report to provide a detailed description of the offense. Finally, we advise that while this decision authorizes the city to withhold under section 552.108(a)(1) all of the requested information other than the basic front page information, the city may also choose to release all or part of this information to the extent that it is not otherwise confidential by law. *See* Gov’t Code §§ 552.007, .352. Because we

are able to resolve the requests as provided above, we need not reach any of your remaining arguments or assertions.

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).

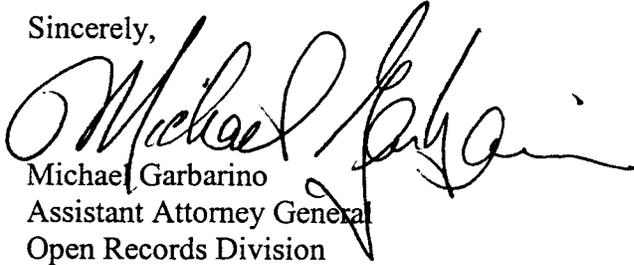
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. 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,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 165729 and ID# 165730

Enc. Submitted documents

c: Mr. Spencer Greeves
Attorney at Law
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(w/o enclosures)