



August 27, 2002

Ms. Laura Garza Jimenez  
County Attorney  
Nueces County  
901 Leopard, Room 207  
Corpus Christi, Texas 78401-3680

OR2002-4782

Dear Ms. Jimenez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 167779.

Nueces County (the “county”) received a request for copies of documents, videotapes, and photographs relating to the incarceration of a specified person in the county jail between May 27, 2002 and June 1, 2002. You claim that the submitted information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

We note at the outset that this office has previously addressed some of the requested information in Open Records Letter No. 2002-3706 (2002). Specifically, we ruled that the county may withhold from disclosure any surveillance video in which the subject of this request may have appeared pursuant to section 552.108(a)(1) of the Government Code. Accordingly, with respect to the videotapes requested in the request for information at issue, we conclude that the county should rely on our decision in Open Records Letter No. 2002-3706 (2002), since the law, facts, and circumstances on which that ruling was based have not changed since the issuance of that ruling. *See* Gov't Code § 552.301(f); *see also* Open Records Decision No. 673 (2001).

You claim that the remaining information at issue is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a) provides in pertinent part 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 as an exception to disclosure of requested information must demonstrate, 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 remaining information at issue relates to an ongoing criminal investigation being conducted by the county's sheriff's department. Therefore, we conclude that the release of the submitted information "would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a).

However, we note that section 552.108 does not except from disclosure 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 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). *See* Open Records Decision No. 127 (1976) (summarizing the types of basic information that must be made available to the public). Accordingly, with the exception of basic information that must be released to the requestor, we conclude that the county may withhold the submitted information from disclosure pursuant to section 552.108 of the Government Code. Because we base our ruling on section 552.108 of the Government Code, we need not address the applicability of your other claimed exception to disclosure.<sup>1</sup>

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;

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<sup>1</sup> We note that "basic information" may not generally be withheld from disclosure under section 552.103 of the Government Code. *See* Open Records Decision Nos. 597 (1991), 362 (1983).

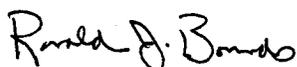
2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things 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,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/seg

Ref: ID# 167779

Enc. Submitted documents

cc: Mr. Christopher J. Gale  
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(w/o enclosures)