OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

March 27, 2003

Ms. Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202-3793

OR2003-2094

Dear Ms. Washington:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178464.

The Addison Police Department (the "department"), which your firm represents, received two requests from the same requestor for information relating to the arrest of the requestor's client on December 27, 2002. The first request seeks the tape recording of the 911 call relating to the arrest, the unit numbers dispatched to the incident, and the names of the officers directly involved in the arrest. The second request seeks the same information, and additionally seeks "photographs taken of the residence during the investigation of this incident; any audio tapes of statements by any of the parties at that time; the radio transmissions; radio recordings and tape logs; MDT tapes/calls; roll-up tapes/calls; and all other types of communication and photographs" related to the arrest. You claim that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.119, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

As a preliminary matter, with respect to the request for the unit numbers dispatched to the incident and the names of the arresting officers, you contend that the Public Information Act (the "Act") does not require a governmental body to answer general questions. We agree that the Act does not require a governmental body to prepare answers to questions or do legal research. *See* Open Records Decision Nos. 563 at 8 (1990) (considering request for federal and state laws and regulations), 555 at 1-2 (1990) (considering request for answers to fact questions). However, the Act requires that a governmental body make a good faith effort to

relate a request to information which it holds. Open Records Decision No. 561 (1990). You indicate that the offense report relating to the incident at issue may be responsive to this portion of the request, and you have submitted the offense report for our review. We therefore find that the department has satisfied its obligation to make a good faith effort to relate the request to information which it holds. Accordingly, we will address your claimed exceptions to disclosure for the submitted information.

Section 552.108(a) of the Government Code 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). You state that the requested information relates to a pending criminal case. Based upon this representation, we determine that the release of the information 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). Thus, we agree that section 552.108 is generally applicable to the submitted information.

We note, however, that section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Basic information that is public under *Houston Chronicle* includes the names of arresting officers. *See Houston Chronicle Publ'g Co.*, 531 S.W.2d at 180, 188. The department must release basic information to the requestor.[1] The department may withhold the remainder of the submitted information under section 552.108(a)(1) of the Government Code.[2] Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

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[1] We note that you also raise section 552.103 of the Government Code. Basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103. Open Records Decision No. 597 (1991). We therefore do not address your claim under section 552.103 with respect to basic information about the arrest at issue.

[2] Based on this finding, we do not reach your other claimed exceptions to disclosure.

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 Dep't of Pub. 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,

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 178464

Enc: Submitted documents

c: Mr. Richard J. Corbitt
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