



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

April 16, 2003

Mr. Leonard V. Schneider  
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2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2003-2574

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 179551.

The City of League City (the "city"), which you represent, received a request for information relating to an armed robbery that occurred on December 15, 2002. You have submitted as the responsive information documents marked 000001 through 000014. You claim that a portion of document 000005 and all of documents 000006-000009 and 000011 are excepted from disclosure under section 552.108 of the Government Code. You also claim that portions of document 000003 are excepted from disclosure under section 552.130 of the Government Code, and that portions of documents 000003-000005 are excepted under section 552.101 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information protected by other statutes, and also encompasses the doctrines of common-law and constitutional privacy. You argue that the dates of birth of the witnesses in document 000004 are excepted from disclosure under section 552.101 of the Government Code. Upon

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<sup>1</sup>You also state that you wish to withhold a portion of the information pursuant to Open Records Decision No. 127 (1976). Open Records Decision No. 127 rules on the applicability of the law enforcement exception to various records, but is not an exception to disclosure.

review of the submitted information, we are unaware of any law that would make this information confidential, nor do you argue that any specific law is applicable. Therefore, we find that the information at issue is not excepted under section 552.101.

You claim that portions of documents 000003-000005 are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

We note, however, that section 58.007 does not apply where the information in question involves only a juvenile complainant or witness and not a juvenile suspect or offender. *See* Fam. Code § 51.04(a) (Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by child). Thus, we conclude that section 58.007 is not applicable to the submitted information, and the information at issue may not be withheld from disclosure under section 552.101 of the Government Code.

You indicate that you seek to withhold portions of the submitted information under section 552.108(a)(1). 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). You state that "[t]his is an open investigation, not resolved." Based upon your representations and our review of the submitted information, we agree that the public release of portions of the submitted 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).

However, section 552.108 does not except from disclosure 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 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). Basic information includes a detailed description of the offense. Open Records Decision No. 127 at 4 (1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold from disclosure the information you seek to withhold under section 552.108 on document 000005 and documents 000006-000009 and 000011 based on section 552.108(a)(1). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

You also seek to withhold Texas license plate numbers in the remaining submitted information under section 552.130. Section 552.130 excepts from public disclosure information relating to a driver's license or motor vehicle title or registration issued by an agency of this state. Thus, you must withhold from disclosure the license plate numbers you have highlighted pursuant to section 552.130.

In summary, with the exception of basic information, you may withhold from disclosure the information you seek to withhold under section 552.108 on document 000005 and documents 000006-000009 and 000011 based on section 552.108(a)(1). The highlighted license plate

numbers must be withheld under section 552.130. The remaining information must be released to the requestor.<sup>2</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; 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).

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<sup>2</sup>Some of the documents marked for release contain or consist of confidential information that is not subject to release to the general public. See Gov't Code § 552.352. However, the requestor in this instance has a special right of access to the information. Gov't Code § 552.023. Because some of the information is confidential with respect to the general public, if the city receives a future request for this information from an individual other than the requestor or her authorized representative, the city should again seek our decision.

Mr. Leonard V. Schneider - Page 5

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jh

Ref: ID# 179551

Enc. Submitted documents

c: Mr. Leonard A. Cruse  
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(w/o enclosures)