ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2006

Mr. Peter Smith
Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2006-01558

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 242460.

The Richardson Police Department (the "department") received a request for a copy of a specific incident report. You state that you have released basic front-page information from the incident report to the requestor. You claim that the remaining information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.[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." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You argue that the requested information relates to "an active, pending case" and that "releasing such information would unduly interfere with the investigation, detection and prosecution of this

[1]Some of the submitted information is not responsive to the instant request. This ruling only addresses information responsive to the request at hand. *See generally* Gov't Code §§ 552.002, .021, .227, .351.

case." However, you have also submitted documentation showing that this case is actually "closed - no citations issued, no arrests made." Based upon these two different representations, we find that you have provided our office with conflicting arguments regarding the requested information. You have not made it clear whether or not the requested information pertains to an open or closed case. Consequently, we find that you have not adequately demonstrated that section 552.108(a)(1) is applicable to the information at issue, and it may not be withheld on that basis. *See* Gov't Code § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). As you have raised no other exception to disclosure, you must release the information at issue to the requestor.[2]

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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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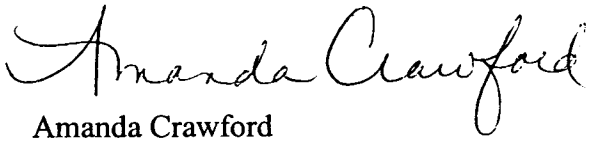
[2]We note that the information being released contains the requestor's Texas-issued license plate number that is excepted from disclosure to the general public under section 552.130 of the Government Code. However, the requestor has a special right of access to this information. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). If the department receives another request for this information from a person who would not have a special right of access to this information, the department should resubmit this same information and request another decision. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

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 Office of the Attorney General 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,



Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/segh

Ref: ID# 242460

Enc. Submitted documents

c: Mr. Alexis Ramirez
411 East Buckingham Road #211
Richardson, Texas 75081
(w/o enclosures)