



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2007

Mr. Cass Robert Callaway
City Attorney
City of Venus
P.O. Box 380
Venus, Texas 76084

OR2007-02608

Dear Mr. Callaway:

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 request was assigned ID# 272984.

The City of Venus (the "city") received a request for seven categories of information. Categories 1 and 2 pertain to an unidentified termination. Categories 3 and 4 relate to the city council and categories 5 and 6 seek general information regarding the city's governance. Category 7 requests a particular police report. You indicate that you will release information responsive to categories 3, 4, 5, and 6. You inform this office that the city sought clarification from the requestor with respect to categories 1 and 2. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used). It does not appear that the city has received a response to its request for clarification. Accordingly, we conclude that the city need not respond to categories 1 and 2 of this request until it receives the requestor's clarification. We note, however, that when the city does receive the clarification, it must seek a ruling from us before withholding any information that may be responsive to those categories of the request for information from the requestor. *See* Open Records Decision No. 663 (1999) (providing for tolling of ten-business-day deadline for requesting attorney general decision while governmental body awaits clarification). You claim that the report responsive to category 7 is excepted from disclosure

under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted report.

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 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 state that report number V06-0855 relates to a pending criminal investigation and possible prosecution. Based upon this representation and our review of the records, we conclude that the release of report number V06-0855 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). The city must release basic front-page information under section 552.108(c), even if the information does not literally appear on the front page of an offense or arrest report. Thus, with the exception of basic information you may withhold report number V06-0855 under section 552.108(a)(1). Because our determination on this issue is dispositive, we need not address your remaining argument against 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, upon receiving this ruling, the governmental body

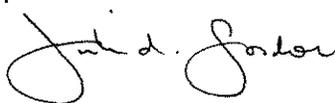
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to 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).

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,



Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

Ref: ID# 272984

Enc. Submitted documents

c: Mr. C.V. Johns
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Palmer, Texas 75152
(w/o enclosures)