



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 8, 1998

The Honorable Michael J. Guarino
Criminal District Attorney
Galveston County Courthouse
722 Moody, Suite 300
Galveston, Texas 77550

OR98-1185

Dear Mr. Guarino:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115385.

The Galveston County District Attorney's Office received a request for information concerning any criminal investigations of Mayor Richard Diehl and Police Chief Keith Warren. You contend that the requested information is excepted from required public disclosure under sections 552.102 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the sample documents that you have submitted¹.

You claim that the requested records are excepted from disclosure by section 552.108(a)(2) of the Government Code. Section 552.108 of the Government Code provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

* * * *

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

investigation that did not result in conviction or deferred adjudication; or

* * * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You explain that "the materials requested are closed files, in that any investigation into complaints did not result in a conviction or deferred adjudication." We conclude that you may withhold the information under section 552.108(a)(2). We note, however, that information normally found on the front page of an offense report is generally considered public. *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); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

Because we make a determination under section 552.108, we do not address your additional argument against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 115385

Enclosures: Submitted documents

cc: Ms. Tracey Grorich
1510 Leadenhall
Channelview, Texas 77530
(w/o enclosures)