

January 22, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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Ms. Tenley Aldredge
Assistant County Attorney
County of Travis
P. O. Box 1748
Austin, Texas 79767

OR99-0203

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121533.

The Travis County Sheriff's Department (the "department") received an open records request for a particular incident report. You have submitted to this office the requested information and contend that this report is excepted from required public disclosure pursuant to, *inter alia*, section 552.108 of the Government Code.

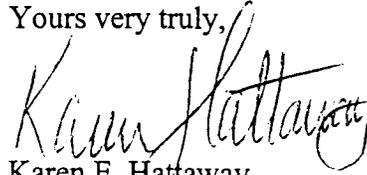
Section 552.108(a)(2) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." You have informed us, and the records before us reflect, that the investigation pertaining to this report was closed as "unfounded." We, therefore, conclude that you have met your burden of establishing the applicability of section 552.108(a)(2) and that most of the information at issue therefore may be withheld.¹

¹Because we resolve your request under section 552.108(a)(2), we need not address the applicability of the other exceptions you raised.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Because you have raised no other exception to disclosure, the department must release these types of information to the requestor in accordance with *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).²

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/ch

Ref.: ID# 121533

Enclosures: Submitted documents

cc: Ms. Sabrina Phillips
10447 A Doc Holliday Trail
Austin, Texas 78753
(w/o enclosures)

²We note that the information you contend is excepted from public disclosure pursuant to section 552.130 of the Government Code does not constitute “front page offense report information.”

January 22, 1999

Ms. Sheila J. Jalufka
Barney L. Knight & Associates
323 West Anderson Lane
Suite 1-105
Austin, Texas 78752

OR99-0204



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

— * —

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Dear Ms. Jalufka:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 123097.

Section 552.301(a) of the Government Code provides in part that:

A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the [act's] exceptions . . . must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the request.

In this case, this office did not receive the request for a decision within the 10 business day period mandated by section 552.301(a). Because the request for a decision was not timely received, the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381; *see Open*

Records Decision No. 630 (1994). You have not raised any specific compelling reasons to overcome the presumption that the information is public. Thus, we conclude that the information must be released to the requestor.

We are resolving this matter with this 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 may 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH\nc

Ref: ID# 123097

Enclosures: Submitted documents

cc: Ms. Amy Jeanne Welton
1145 West Fifth Street, Suite 300
Austin, Texas 78703
(w/o enclosures)