OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

February 23, 2000

Ms. Lois Cochran
Records Coordinator
The City of Cleburne
Post Office Box 677
Cleburne, Texas 76033-0677

OR2000-0652

Dear Ms. Cochran:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132725.

The City of Cleburne (the "city") received a request for Incident Report No. 9930615 . You contend that the requested information is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information held by a law enforcement agency or prosecutor concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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 inform us that the information relates to an investigation where no charges were filed and the case had been declared inactive. Therefore, the information relates to an investigation that did not result in a conviction or deferred adjudication. Thus, we find you may withhold most of the information under section 552.108(a)(2) of the Government Code.

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Pub'l 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, with the exception of the

basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(2). 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.

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.

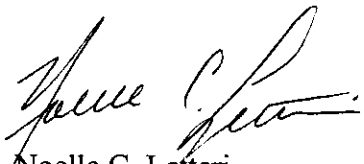
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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).

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).

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,



Noelle C. Letteri
Assistant Attorney General
Open Records Division

NCL/cwt

Ref: ID# 132725

Encl. Submitted documents

cc: Ms. Melody Sue Flores
1120 E. James
Cleburne, Texas 76031
(w/o enclosures)