



February 23, 2000

Mr. Ed C. Jones
County Attorney
Angelina County
P O Box 1845
Lufkin, Texas 75905-1845

OR2000-0656

Dear Mr. Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132377.

The Angelina County Sheriff's Office (the "county") received a request for information concerning the death of Cory Woods. You claim that the requested 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.

We remind you that section 552.108 is a discretionary exception so any information held by a law enforcement agency or prosecutor that is not otherwise confidential by law may be released to the public at anytime. Gov't Code § 552.007. Therefore, in this instance, the Public Information Act does not prohibit the county from releasing the requested information to the requestor.

Nonetheless, the county has established the applicability of section 552.108(a)(2). You inform us that the case concluded in a result other than a conviction or deferred adjudication. However, section 552.108 is inapplicable to basic front page information about this incident. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *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). Thus, with the exception of the basic front page information, you may withhold the requested information from disclosure based on section 552.108(a)(2).

In addition, the information you submitted contains an autopsy report. Autopsy reports must be disclosed, in that they are expressly made public by the Code of Criminal Procedure.¹ See Code Crim. Proc. art. 49.25, § 11. Therefore, the autopsy report must be released to the requestor.

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).

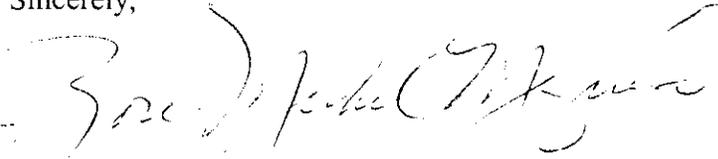
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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

¹The Public Information Act's exceptions do not, as a general rule, apply to information expressly made public by other statutes. Open Records Decision No. 525 (1989).

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía". The signature is written in a cursive style with a large initial "R" and "M".

Rose- Michel Munguía
Assistant Attorney General
Open Records Division

RMM/jc

Ref: ID# 132377

Encl. Submitted documents

cc: Mr. Joe Hendricks
Hendricks Investigations
204 East Lufkin Avenue #204
Lufkin, Texas 75901
(w/o enclosures)