



April 21, 2000

Ms. Lamis A. Safa
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR2000-1655

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136226.

The City of Houston Police Department (the “department”) received a request for two specified offense reports. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. You assert that the requested offense reports pertain to a single incident that did not result in conviction or deferred adjudication.¹ Having reviewed the submitted information, we note that offense report #156517499V reflects the case disposition as lack of prosecution by complainant. Further, the narrative portion of the report provides that the assistant district attorney refused to accept charges. Based on your representations and the submitted information, we agree that section 552.108(a)(2) is applicable. You state that the department has already released basic information as required by *Houston Chronicle Publ’g Co. v.*

¹We note that the department should indicate the status of the cases in its brief. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how stated exceptions apply to submitted information); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977) (governmental body must explain how section 552.108 applies to submitted information).

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). *See also* Gov't Code § 552.108(c). 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 § 552.007.²

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).

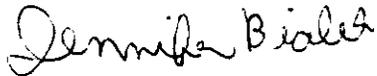
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

²Because the offense reports are excepted from disclosure under section 552.108(a)(2), we need not address the applicability of sections 552.101 and 552.130.

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,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/nc

Ref: ID# 136226

Encl. Submitted documents

cc: Ms. Jacquelyn Hall-Williams
11909 Fondren Meadow
Houston, Texas 77071
(w/o enclosures)