



May 15, 2000

Mr. Paul F. Wieneskie
Cribbs & McFarland
P.O. Box 13060
Arlington, Texas 76094-0060

OR2000-1911

Dear Mr. Wieneskie:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135183.

The City of Euless Police Department (the "department"), which you represent, received a request for a specified offense report. You have supplied this report to this office for review. You seek to withhold two sentences in this report, which you have identified, asserting that this portion of the requested information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code. You state that you will release the balance of the responsive information. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure certain information held by a law enforcement agency or prosecutor. Section 552.108(a)(2) excepts information in cases that have reached a final result other than conviction or differed adjudication. In this case, the offense report concerns an allegation of the occurrence of the crime of theft, with a loss of under fifty dollars. This crime is a misdemeanor. Penal Code § 31.03(e)(1)(A). The limitations period for misdemeanor charges is two years from the date of the commission of the offense. Code Crim. Proc. art. 12.02. The date of the alleged occurrence is October 27, 1997. Therefore,

this offense is not subject to prosecution. After examination of the submitted materials, we conclude that the subject investigation has reached a final result other than conviction or deferred adjudication.¹ Note that section 552.108 does not except basic information about a crime or arrest from disclosure. Gov't code § 552.108(c). We consider "basic" information to be the "front page" information made public by *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*. As the information that you seek to withhold is not basic information, it may be withheld under Government Code section 552.108(a)(2).

As Government Code section 552.108 disposes of this request, we do not discuss section 552.111. 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).

¹In the future you should explain the status of the investigation or prosecution, and the applicability of the claimed exception in your written comments to this office.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 135183

Encl Submitted documents

cc: Shannon K. Armstrong
4301 Longlief Drive
Garland, Texas 75042
(w/o enclosures)