



May 25, 2000

Mr. Wyman Hopkins
Administrative Sergeant
City of Rosenberg Police Department
2120 Fourth Street
Rosenberg, Texas 77471

OR2000-2084

Dear Mr. Hopkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135677.

The Rosenberg Police Department (the “department”) received a written request for a particular police report. You state that the requestor has been furnished with “all other portions of the requested information that [the department] believes are open to the public.” You claim, however, that the remaining requested information, which you have marked, is excepted from required public disclosure pursuant to section 552.108(a)(2) of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

...

(2) 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[.]

In this instance, you state that the “respective case . . . investigation has been concluded, but has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication against any person.” Our review of the documents at issue reveals that the disposition of this case is “Inactive.” Based on our understanding that you represent that this case is concluded and did not result in a conviction or deferred adjudication, this office finds that the department may withhold the information at issue pursuant to section 552.108(a)(2) with the exceptions noted below.

Section 552.108 does not except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” 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). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. Thus, with the exception of the basic front page offense and arrest report 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).

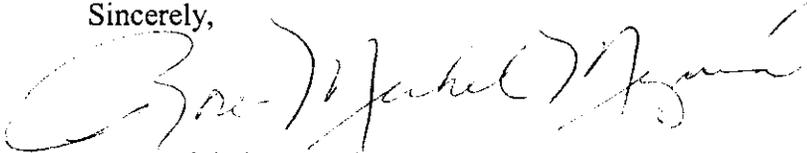
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

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

Rose-Michel Munguia
Assistant Attorney General
Open Records Division

RMM/pr

Ref: ID# 135677

Encl. Submitted documents

cc: Ms. Holly Klesel
4106 Avenue I
Rosenberg, Texas 77471
(w/o enclosures)