



June 20, 2000

Ms. Tenley Aldredge
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2000-2369

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136298.

The Office of the Travis County District Attorney (the "county") received a request for information related to a specified fatality collision. 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.

Section 552.108 (a)(2) of the Government Code excepts from public disclosure information held by a law enforcement agency or prosecutor 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. Information relating to a criminal investigation or prosecution that concluded in a result other than a conviction or deferred adjudication may be withheld under this subsection of Government Code 552.108. From our review of the submitted materials we have determined that they relate to a prosecution of a case of criminal negligent homicide. You inform this office that this "underlying case was no billed." We conclude that information related to this investigation and prosecution may be withheld under section 552.108(a)(2) of the Government Code. However, "basic" information about a crime or arrest is not excepted by section 552.108. *See 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*, 536 S.W.2d 559 (Tex. 1976) (delineating types of information that must be released). Open Records Decision No. 127 (1976).

The submitted information also includes an affidavit in support of an arrest warrant. You contend that a portion of this information is excepted from public disclosure. However, information that is also contained in a public court record can not be excepted from disclosure unless it is made confidential by other law. Gov't Code § 552.022(a)(17). Section 552.108 is a discretionary exception and therefore does not make information "confidential under other law." *See e.g.* Open Records Decision No 551 (1990). You indicate that you have released a redacted copy of this document. If this document has been filed with a court it must be released in its entirety.

In summary, you must release the affidavit in support of an arrest warrant, if that document was filed with a court, as well as the "basic" information about the crime or arrest, and may withhold the remaining information.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 136298

Encl Submitted documents

cc: Mr. Mark Beaman
Attorney at Law
221 W. 6th Street
Austin, Texas 78701
(w/o enclosures)