



November 13, 2000

Ms. Kristi LaRoe
Assistant District Attorney
County of Tarrant
401 West Belknap
Fort Worth, Texas 76196-0201

OR2000-4390

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 141227.

The Tarrant County District Attorney's Office (the "county") received a request for information regarding a specified case. You have submitted for our review information that is responsive to the request. 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 of the Government Code provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] 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[.]

...

- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. You state that the information pertains to a case that was dismissed. We thus agree that you have demonstrated the applicability of section 552.108(a)(2) to much of the information at issue. We accordingly conclude, except as otherwise noted below, that the department may withhold the submitted documents under section 552.108 of the Government Code.

We note that information normally found on the front page of an offense report is generally considered public. *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); Open Records Decision No. 127 (1976). Thus, you must release 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 an offense report. Gov't Code § 552.108(c); see *Houston Chronicle*, 531 S.W.2d at 187.

We also note that some of the information is subject to release under section 552.022 of the Government Code. This provision states in pertinent part:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter *unless they are expressly confidential under other law*:

...

- (3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

...

- (17) information that is also contained in a public court record[.]

Gov't Code § 552.022 (emphasis added). The submitted records include documents that appear to have been filed with a court. To the extent the submitted records are also contained in a public court record, such information is subject to section 552.022(a)(17). The

submitted records also include a two page "Individual Check Writer's Account History" and a one page "Restitution Payment Receipt" from the county's Hot Check Division. We believe these documents are subject to section 552.022(a)(3).

The two page "Individual Check Writer's Account History" comprises "information in an account . . . relating to the receipt or expenditure of public or other funds by" the county. However, we note that the second page of the "Individual Check Writer's Account History" contains a handwritten notation which we believe is not subject to section 552.022 of the Act and therefore may be redacted under section 552.108(a)(2) as provided above. The one page "Restitution Payment Receipt" constitutes "information in . . . [a] voucher relating to the receipt or expenditure of public or other funds by" the county.

As to the above-described records that we find are subject to section 552.022(a)(3) and (17) of the Act, you do not assert the applicability of any "other law" that makes any of this information expressly confidential. We advise that section 552.108 of the Government Code is a discretionary exception under the Act and thereby does not constitute "other law" that makes information confidential. However, the "Restitution Payment Receipt" contains a driver's license number that we believe the county must redact pursuant to section 552.130 of the Act. *See Gov't Code § 552.130(a)(1).*

In summary, you may withhold the submitted information pursuant to section 552.108 of the Government Code, except you must release to the requestor the basic information, any information that is also contained in a public court record, the two page "Individual Check Writer's Account History," and the one page "Restitution Payment Receipt." Before releasing the "Individual Check Writer's Account History" you may redact the notation on the second page pursuant to section 552.108. Before releasing the "Restitution Payment Receipt" you must redact the driver's license information we have marked.

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).

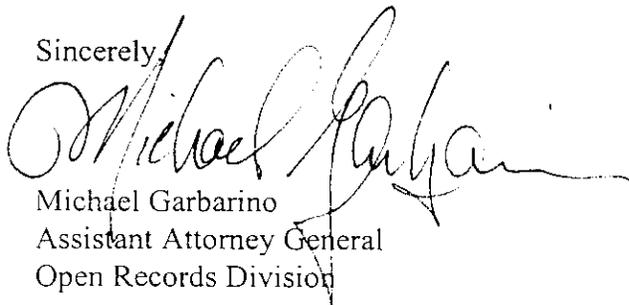
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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 Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 141227

Encl. Submitted documents

cc: Ms. Anne Reagan
3913 Longherridge
Pearland, Texas 77581
(w/o enclosures)