



December 15, 2000

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2000-4718

Dear Ms. Sheely:

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# 142385.

The Public Integrity Unit of the Travis County District Attorney's Office (the "county") received a request for "any documentation" of a complaint filed in 1997 against a named employee of the Texas Department of Health. You have submitted for our review information that is responsive to the request, contained in folders marked by you as exhibits A, B, and C. You assert that this 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 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 after the investigation “the D.A. prosecutors determined to close the case without prosecution.” Based on our understanding that the matter has reached a final result other than conviction or deferred adjudication, we 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 county may withhold the submitted information 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). 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. You state that “such basic information appears to be non-existent in this case.” We disagree. For example, the information in exhibit A includes the types of information that constitute basic information under *Houston Chronicle*. *See also* Open Records Decision No. 127 (1976) (summarizing the types of information that constitute basic information). You must release to the requestor the basic information contained in the submitted documents.

In addition, we note that section 552.022 of the Act states in relevant part that unless expressly confidential under other law, a “contract relating to the receipt or expenditure of public or other funds by a governmental body” is subject to required public disclosure. Gov't Code § 552.022(a)(3). Section 552.108 of the Act is not other law that makes information expressly confidential. We have therefore marked with green flags a two page document that the county must release pursuant section 552.022(a)(3).

In summary, the county must release to the requestor the basic information, as well as the two page document we have marked with green flags. The county may withhold the remaining information pursuant to section 552.108.

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).

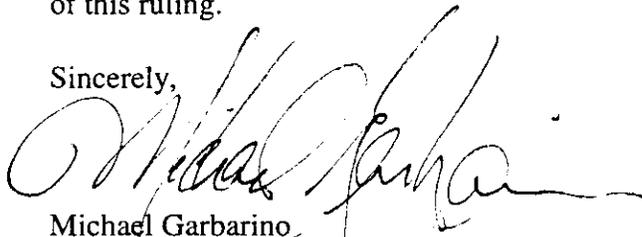
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Hadassah Schloss at 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# 142385

Encl. Submitted documents

cc: Ms. Lana Hill
230 East Pietzsch
Bartlett, Texas 76511
(w/o enclosures)