



October 30, 2001

Mr. Kenneth Wall  
Attorney for the City of Jersey Village  
Olson & Olson  
333 Clay Street, Suite 3485  
Houston, Texas 77002

OR2001-4964

Dear Mr. Wall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 154122.

The City of Jersey Village (the "city"), which you represent, received a written request for all records pertaining to a police investigation of a suicide. You contend the requested information is excepted from public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.108(b)(2) of the Government Code excepts from public disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution," but only where "an investigation . . . did not result in conviction or deferred adjudication." You state that the police investigation has concluded and did not result in a conviction or deferred adjudication. We therefore conclude that the city may withhold most of the information at issue pursuant to section 552.108(b)(2) of the Government Code.

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). We therefore conclude that the city must release all basic information from the requested offense report in accordance with *Houston Chronicle Publishing Company 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).

We also note that the records at issue contain an autopsy report. Section 11 of article 49.25 of the Code of Criminal Procedure requires that autopsy reports be made available to the public. Open Records Decision No. 529 (1989). Section 11 of article 49.25 provides that

[t]he records [of an autopsy] are subject to *required* public disclosure in accordance with Chapter 552, Government Code, except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

- (1) under a subpoena or authority of other law; or
- (2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

Code Crim. Proc. art. 49.25, § 11. Consequently, the autopsy report submitted to our office must be released to the requestor.<sup>1</sup>

In summary, except for the “basic information” and autopsy report, which must be released, the city may withhold all of the remaining information at issue pursuant to section 552.108(a)(2). Because we are able to resolve this matter under section 552.108, we do not address the other exception you raised.

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

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<sup>1</sup>The submitted documents do not include photographs or x-rays taken during the autopsy. To the extent that such photographs or x-rays exist, they must be withheld pursuant to article 49.25 of the Code of Criminal Procedure.

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 Dept. 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,



Cindy M. Nettles  
Assistant Attorney General  
Open Records Division

CMN/RWP/sdk

Ref: ID# 154122

Enc. Submitted documents

c: Mr. J. Turner Lambert  
Route 5, Box 569  
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(w/o enclosures)