ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2004

Ms. Julie Joe
Assistant County Attorney
Travis County, Transactions Division
P. O. Box 1748
Austin, Texas 78767

OR2004-10422

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 214728.

The Travis County District Attorney's Office (the "district attorney") received several requests from different requesters for information pertaining to a certain investigation. You claim that the requested information, or portions thereof, is excepted from disclosure pursuant to sections 552.107(1) and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

You claim that the submitted information is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. *See* Gov't Code § 552.108(a)(2). You state that the submitted information pertains to a closed criminal investigation that did not result in conviction or deferred adjudication. Accordingly, we conclude that the district attorney

may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code.[1]

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 Dep't of Pub. 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 Texas Building and Procurement Commission at (512) 475-2497.

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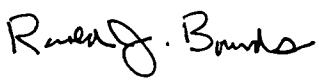
[1] As our ruling is dispositive, we need not address your remaining arguments.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/krl

Ref: ID# 214728

Enc. Submitted documents

c: Mr. Glenn Wilkinson
6110 Shea Circle
Corpus Christi, Texas 78413
(w/o enclosures)

Mr. Robert Silvas
22 Wayside
San Antonio, Texas 78213
(w/o enclosures)