



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2005

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
Office of the Criminal District Attorney
401 West Belknap
Fort Worth, Texas 76196-0201

OR2005-08804

Dear Ms. Fourt:

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# 233178.

The Tarrant County District Attorney's Office (the "district attorney") received a request seeking the name of a person and the name of the business operated by that person in connection with an incident involving theft. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (allowing interested party to submit comments indicating why requested information should or should not be released).

Initially, we note that you have submitted information that consists of investigative documents related to the theft referenced by the requestor. However, the requestor is only seeking the name of a person and the name of the business operated by that person. Because much of this information is beyond what the requestor is seeking, we find that it is not responsive to the request for information. We do not address the public availability of this non-responsive information, and the district attorney need not release it to the requestor. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

We next address your claim under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that

concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that requested information relates to an investigation of an individual whom the district attorney declined to prosecute. In this regard, the requested information relates to an investigation that concluded in a result other than conviction or deferred adjudication. We therefore agree that the district attorney may withhold the requested information under section 552.108(a)(2) of the Government Code. Because we reach this conclusion, we need not address your remaining argument against disclosure.

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 ten 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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 ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/krl

Ref: ID# 233178

Enc. Submitted documents

c: Mr. George R. Moore
1104 Aransas Drive
Eules, Texas 76039
(w/o enclosures)