



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 16, 2006

Ms. April M. Virnig  
Taylor Olson Adkins Sralla Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2006-02632

Dear Ms. Virnig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 244327.

The Azle Police Department (the "department"), which you represent, received a request for information pertaining to a specified call. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code, as well as Rule 508 of the Texas Rules of Evidence. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. You assert that the submitted information pertains to an investigation that concluded in a result other than conviction or deferred adjudication. Based on your representation, we conclude that section 552.108(a)(2) is applicable to the submitted information.

We note that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic front page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ*

*ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

Front page information includes the identity of the complainant. However, you argue that the release of the complainant's identity will subject this individual to "possible intimidation or harassment or harm the prospects of future cooperation" and is therefore excepted from disclosure under the predecessor to section 552.108. Open Records Nos. 329 (1982), 313 (1982), 297 (1981), 252 (1980). You also contend that the complainant's identity should be withheld under the common law informer's privilege, as well as the informer's privilege found in Rule 508 of the Texas Rules of Evidence. We note, however, that the complainant is not identified in the information at issue; rather, the complainant was an anonymous caller. Accordingly, this information may not be withheld under section 552.108 or the informer's privilege.

In summary, with the exception of basic information, the department may withhold the submitted information, including the copy of the telephone call, under section 552.108(a)(2) of the Government Code. You may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007.

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).

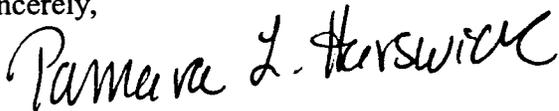
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 10 calendar days of the date of this ruling.

Sincerely,



Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/sdk

Ref: ID# 244327

Enc. Submitted documents

c: Mr. Charles Tangney  
3451 River Park Drive #721  
Fort Worth, Texas 76116  
(w/o enclosures)