



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 4, 2007

Mr. Hal C. Hawes
Assistant County Attorney
Williamson County
405 M.L.K. Street, Box 7
Georgetown, Texas 78626

OR2007-00104

Dear Mr. Hawes:

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# 268307.

The Williamson County Sheriff's Department (the "department") received two requests from the same requestor for a 9-1-1 call, videotape, and police report relating to an incident on October 5, 2006, as well as other documents pertaining to a couple. You claim that the requested information is excepted from disclosure under sections 552.108, 552.117, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code 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, and the information reflects, that the submitted 9-1-1 call, videotape, and criminal file relate to a criminal case where no arrests were made and no criminal charges were pursued. Based on your representations and our review, we find that section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976). Accordingly, with the exception of basic information, the department may withhold the submitted 9-1-1 call, videotape, and criminal file pursuant to section 552.108(a)(2) of the Government Code.¹

Section 552.136 of the Government Code provides that:

(a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. You state that the access device number of a gate found in Exhibit D is excepted from disclosure under this provision. This is not the type of access device considered by section 552.136. Therefore, you may not withhold any of the information in Exhibit D under section 552.136.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). Section 552.137 does not apply to a government employee’s work e-mail address because such an address is not that of the employee as a “member of the public” but is instead the address of the individual as a government employee. The e-mail addresses you have marked in Exhibit E are not a type specifically excluded by section 552.137(c). We understand that the relevant member of the public has not consented to the release of these e-mail addresses.

¹As our ruling is dispositive, we need not address your other arguments.

Therefore, the department must withhold the e-mail addresses you have marked pursuant to section 552.137.

In summary, with the exception of basic information, the department may withhold the 9-1-1 call, videotape, and criminal file pursuant to section 552.108. The department must withhold the e-mail addresses which you have marked in Exhibit E. The remaining information must be released.

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).

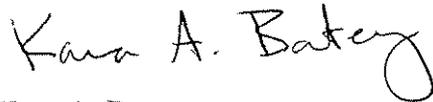
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

A handwritten signature in black ink that reads "Kara A. Batey". The signature is written in a cursive style with a large, looping 'y' at the end.

Kara A. Batey
Assistant Attorney General
Open Records Division

KAB/jww

Ref: ID# 268307

Enc. Submitted documents

c: Ms. Sherry McMillin
Ausley, Algert, Robertson & Flores
3307 Northland Drive, Suite 420
Austin, Texas 78731
(w/o enclosures)