



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 10, 2008

Ms. Christine Womble
Assistant District Attorney
Dallas County District Attorney's Office
Frank Crowley Courts Building
133 North Industrial Boulevard, LB-19
Dallas, Texas 75207-4399

OR2008-00526

Dear Ms. Womble:

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# 299307.

The Dallas County District Attorney's Office (the "district attorney") received a request for all e-mail and other communications referencing a specified name and two specified businesses, as well as several categories of information regarding these communications. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. The Garland Police Department also asserts that the requested information is excepted from disclosure under section 552.108 of the Government Code, and the Plano Police Department asserts that the requested information is excepted under sections 552.103 and 552.108 of the Government Code. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments 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. *See 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 has concluded in a final result other than a conviction or deferred

adjudication. We note that section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *Cf.* Open Records Decision Nos. 474 (1987) (statutory predecessor to section 552.108 may be invoked by proper custodian of information relevant to an incident involving allegedly criminal conduct that is still under active investigation or prosecution), 372 (1983). You state that the submitted information relates to investigations by the Garland and Plano Police Departments. The Garland Police Department states that the submitted information pertains to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Based on this representation, we agree that the district attorney may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code. As our ruling is dispositive, we need not address the remaining arguments.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

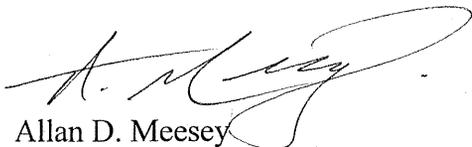
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Allan D. Meeseey
Assistant Attorney General
Open Records Division

ADM/ma

Ref: ID# 299307

Enc. Submitted documents

c: Ms. Gail Skees
C&G Wholesale
10345 Brookwood Road
Dallas, Texas 75238
(w/o enclosures)

Ms. K. Jefferson Bray
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
(w/o enclosures)

Mr. Mark G. Mann
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002
(w/o enclosures)