



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 8, 2008

Ms. Laura Garza Jimenez  
Nueces County Attorney  
Nueces County Courthouse  
901 Leopard, Room 207  
Corpus Christi, Texas 78401-3680

OR2008-09230

Dear Ms. Jimenez:

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# 315278.

The Nueces County Sheriff (the "sheriff") received a request for surveillance video taken in the jail involving an alleged sexual assault. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us that the submitted information is subject to a previous request for information, in response to which this office issued Open Records Letter No. 2008-06022 (2008). In the prior ruling, this office determined that the submitted information was excepted from disclosure pursuant to section 552.108(a)(1) of the Government Code. We note that relevant facts and circumstances have changed since the issuance of our previous ruling. In the previous request, the sheriff asserted that release of the submitted information would interfere with the detection, investigation, or prosecution of crime because it pertained to a pending criminal investigation. However, you inform us that the investigation has now concluded. Therefore, as relevant facts have changed since the issuance of Open Records Letter Ruling 2008-06022, we conclude that the sheriff may not rely on that ruling as a previous determination. *See* Open Records Decision No. 673 (2001) (describing the four criteria for a "previous determination"). Accordingly, we will consider the applicability of the exceptions you claim.

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. 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. You inform us, and provide an affidavit signed by the assistant chief deputy of operations stating, that the submitted information relates to a criminal investigation that concluded in a grand jury's decision to "no bill" the suspects. Therefore, this investigation has concluded in a result other than conviction or deferred adjudication. Based on this representation, we conclude that the sheriff 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 your 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). If the governmental body does not file suit over 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).

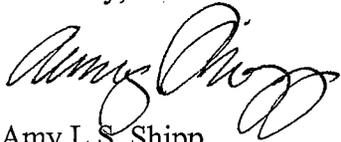
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/mcf

Ref: ID# 315278

Enc. Submitted documents

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(w/o enclosures)