



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 15, 2010

Mr. Allan S. Graves  
Adams, Lynch & Loftin, P.C.  
For Tarrant County Hospital District  
3950 Highway 360  
Grapevine, Texas 76051

OR2010-18801

Dear Mr. Graves:

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# 403014 (Department File No. 10386).

The Tarrant County Hospital District Police Department (the "department"), which you represent, received a request for information related to a specified complaint of telephone harassment and issues related to violations of patient privacy. You state the department does not have information responsive to the request for information related to a complaint of telephone harassment.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 (interested party may submit comments stating why information should or should not be released).

Initially, we must address the requestor's assertion that the department did not comply with section 552.301(b) of the Government Code. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *Id.* § 552.301(b). The requestor asserts the

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

department received the present request on September 22, 2010. However, the department states that it received the present request from the requestor on September 24, 2010. This office cannot resolve disputes of fact in its decisional process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See* ORD 552 at 4. Accordingly, we must presume that the department did not receive the request from the requestor until September 24, 2010. Therefore, we conclude the department complied with the procedural requirements of section 552.301(b).

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). You state the department is a commissioned law enforcement agency enabled by section 281.057 of the Health and Safety Code. *See* Health & Safety Code § 281.057. You further state the submitted information relates to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on your representations and our review of the information at issue, we conclude that section 552.108(a)(2) is applicable to this information.

We note that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Such 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. per curiam*, 536 S.W.2d 559 (Tex. 1976). With the exception of basic information, which you state you have released, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>2</sup>

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tamara Wilcox', written in a cursive style.

Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 403014

Enc. Submitted documents

c: Requestor  
(w/o enclosures)