



October 9, 2001

Mr. David L. Hay
Information Coordinator
Dallas County Community College District
701 Elm Street
Dallas, Texas 75202-3299

OR2001-4553

Dear Mr. Hay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 153017.

The Dallas County Community College District (the "district") received a written request for all documents pertaining to a 1996 internal affairs investigation of a district police officer. You state that the district has released some responsive information to the requestor. You contend, however, that the information you submitted to this office is excepted from disclosure pursuant to section 552.108 of the Government Code. This office has also received correspondence from the requestor arguing that the requested information should be released. *See* Gov't Code § 552.304. You have submitted to this office records that you state are a representative sample of the requested information.¹

Section 552.108(a)(2) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection,

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. In this regard, we note that you have not submitted documents reflecting any disciplinary action taken as a result of the internal affairs investigation. This letter ruling does not authorize the withholding of any such record.

investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” Section 552.108(b)(2) of the Government Code excepts from public disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution,” but only where “an investigation . . . did not result in conviction or deferred adjudication.” You have informed this office that the internal affairs investigation has concluded and did not result in a conviction or deferred adjudication. We therefore conclude that the district may withhold most of the information at issue pursuant to section 552.108(a)(2) and (b)(2).

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The internal affairs investigation concluded that, in addition to various district policy violations, the following criminal actions occurred: conspiring the false identification as a peace officer, abuse of official capacity, theft over \$500, forgery, and official misconduct. We therefore conclude that the district must release all basic information regarding each of these alleged offenses, including a *detailed* description of the offenses, in accordance with *Houston Chronicle Publishing Company 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). The district may withhold the remaining information from the internal affairs investigation pursuant to section 552.108(a)(2) and (b)(2) of the Government Code.²

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, within 10 calendar days of this ruling, the

²Because we resolve your request under section 552.108(a)(2), we need not address the applicability of the other exception you raised.

governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public 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 General Services Commission 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,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/RWP/seg

Ref: ID# 153017

Enc. Submitted documents

c: Mr. Gene M. Hale
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(w/o enclosures)