ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2005

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR2005-10222

Dear Mr. Mann:

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# 236206.

The Garland Police Department (the "department") received a request for a particular offense report. You claim that the information marked in red is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor's attorney. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.108(a)(2) 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 the submitted offense reports concern an investigation that did not result in a conviction or deferred adjudication. Based upon this representation, we agree that section 552.108(a)(2) is applicable to the red-highlighted portions of the submitted offense report. You state that the department has released the remainder of the offense report as basic information. *See* Gov't Code § 552.108(c) (Gov't Code § 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime). Basic information refers to the information held to be public in *Houston Chronicle Publ'g 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) (court delineates law enforcement interests

that are present in active cases). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). As such, the department may withhold the red-highlighted portions of the submitted information from disclosure pursuant to section 552.108(a)(2). We note that you have the discretion to release all or part of the red-highlighted information that is not otherwise confidential by law. Gov't Code § 552.007.

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).

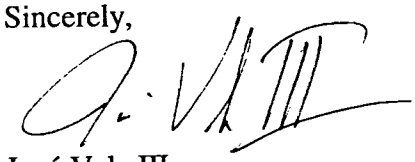
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 236206

Enc. Submitted documents

c: Rachel Brie Smith
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