



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2007

Mr. Charles K. Eldred  
Assistant City Attorney  
For the City of Lago Vista  
Knight & Partners  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

OR2007-05271

Dear Mr. Eldred:

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# 278108.

The Lago Vista Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident.<sup>1</sup> You state that the department has released some of the requested information. You claim that some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>2</sup>

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<sup>1</sup>You inform us that the department sought and received clarification of the request from the requestor. See Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); Open Records Decision No. 633 at 5 (1999) (ten business-day deadline tolled while governmental body awaits clarification).

<sup>2</sup>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 Nos. 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.

You claim that the information in Exhibits C, D, and E is excepted from disclosure under section 552.108 of the Government Code, which provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(2) it is information that the 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). 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 that the information in Exhibits C, D and E relates to an investigation that did not result in a conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) of the Government Code is applicable to this information.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe 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); *see also* Open Records Decision No.127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note that basic information includes a detailed description of the offense. Accordingly, with the exception of basic information, the department may withhold the information in Exhibits C, D, and E under section 552.108(a)(2) of the Government Code.

Next, we note that some of the information in Exhibit B is excepted from disclosure under section 552.130 of the Government Code.<sup>3</sup> This section excepts from disclosure information that “relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. The department must withhold the Texas motor vehicle record information we have marked in Exhibit B.

In summary, with the exception of basic information, the department may withhold the information in Exhibits C, D, and E pursuant to section 552.108 of the Government Code. The department must withhold the information we have marked in Exhibit B pursuant to

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<sup>3</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

section 552.130 of the Government Code. The remaining submitted information must be released.<sup>4</sup>

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

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<sup>4</sup>Section 552.023 of the Government Code grants a special right of access to a person or a person's authorized representative to records that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests. In this instance, the requestor has a special right of access under section 552.023 to some of the submitted information. If the department receives another request for this same information from a different requestor, the department should resubmit the information to us and request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No.673 (2001).

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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/mcf

Ref: ID# 278108

Enc. Submitted documents

c: Mr. John A. Yaeger  
3404 American Drive, #2302  
Lago Vista, Texas 78645  
(w/o enclosures)