



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2007

Mr. James R. Thompson
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2007-08080

Dear Mr. Thompson:

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# 282382.

The Copperas Cove Police Department (the "department") received a request for a copy of the department's daily bulletin dated April 23, 2006 and a copy of a specified police report involving the requestor. You state that you have released a portion of the requested information to the requestor. You claim that 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. We have also considered comments submitted by a third party. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

You claim that the submitted information is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code.¹ Section 552.108(a)(2) 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 indicate that the submitted report pertains to the investigations and charges brought against two individuals, including the requestor. You state that the

¹While you cite to section 552.108(2) of the Government Code for your argument to withhold the submitted information, we understand you to claim section 552.108(a)(2).

charge related to the requestor was no-billed by a grand jury. You state that the charge against the other individual was dismissed by the county attorney's office. You therefore assert that the case did not result in a conviction or deferred adjudication. Based on your statements, we agree that the submitted police report and a portion of the daily bulletin relate to investigations that concluded in final results other than convictions or deferred adjudications. Accordingly, section 552.108(a)(2) is applicable to the submitted police report and the portion of the daily bulletin that relates to the specified case. However, we find that you have not sufficiently shown that the remaining information contained in the daily bulletin relates to concluded investigations that did not result in convictions or deferred adjudications. Therefore, you have not demonstrated the applicability of section 552.108(a)(2) to the remaining information contained in the daily bulletin, and it may not be withheld on this basis.

You state that you have released basic "front page" information. Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). 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). Thus, with the exception of basic information, the department may withhold the police report under section 552.108(a)(2). We note that the portion of information contained in the daily bulletin that is subject to section 552.108(a)(2) constitutes basic information, and thus, it may not be withheld under this subsection.

To conclude, with the exception of basic information, the department may withhold the police report under section 552.108(a)(2) of the Government Code. The daily bulletin must be released in its entirety.

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,



Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 282382

Enc. Submitted documents

c: Ms. Debra A. Hutchinson
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Copperas Cove, Texas 76522
(w/o enclosures)