



December 28, 2001

Mr. Joe Jackson
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842-9960

OR2001-6119

Dear Mr. Jackson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156605.

The City of College Station (the "city") received a request for fourteen categories of information concerning a named police officer. You inform us that you are releasing some information sought by the requestor, including basic information. You claim, however, that the remaining information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) 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[.]

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. In this instance, you have not adequately explained that the requested information relates to criminal investigations that *concluded in a result* other than a conviction or deferred adjudication. See Gov't Code § 552.108(a)(2), (b)(2). Rather, you state that the investigations are "inactive" and "have not been submitted for prosecution." However, it appears from the face of Exhibit E that the complainant referenced in Exhibits 71 through 73 does not wish to prosecute that case. Therefore, we conclude that the information in Exhibits 72 and 73 may be withheld under section 552.108(a)(2). On the other hand, Exhibits 87 through 89 do not, on their face, demonstrate the applicability of section 552.108(a)(2); therefore, you may not withhold those exhibits under section 552.108.¹

Section 552.130 excepts from disclosure information that relates to a driver's license or a motor vehicle title or registration issued by an agency of this state. Thus, under section 552.130, you must withhold the driver's license and motor vehicle information we have marked in Exhibits 64, 65, 71, 86, and 87. The remaining information must be released.

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 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.

¹We decline to issue you a previous determination for section 552.108 information.

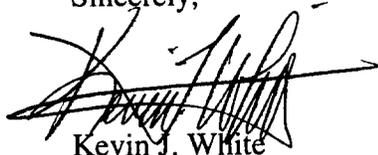
The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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 Texas Building and Procurement 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,



Kevin J. White
Assistant Attorney General
Open Records Division

KJW/seg

Ref: ID# 156605

Enc. Submitted documents

c: Mr. Jim W. James
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(w/o enclosures)