



September 17, 2002

Ms. Melissa L. Barloco
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2002-5233

Dear Ms. Barloco:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 168730.

Harris County Human Resources and Risk Management (the "county") received a request for information relating to a traffic accident. You claim that the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note at the outset that included among the submitted documents is a peace officer's accident report form that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). The release of this accident report is not governed by the Public Information Act, but rather by chapter 550 of the Transportation Code. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the county with two of the three pieces of information. Consequently, the county must release the accident report, including all attachments thereto, in its entirety pursuant to section 550.065(b) of the Transportation Code.

We turn now to your arguments. You assert that the submitted information is excepted under section 552.101. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." However, you do assert, nor are we aware of, any provision of law outside the Public Information Act that makes any of the submitted information confidential. Accordingly, as you have not shown that section 552.101 applies to any of the submitted information, you may not withhold any of the submitted information under this section.

Section 552.117(2) excepts from disclosure "information that relates to the home address, home telephone number, or social security number" of a peace officer as defined by article 2.12 of the Code of Criminal Procedure, or that reveals whether the peace officer has family members. We understand you to represent that the submitted information includes, in part, information that relates to a peace officer as defined by article 2.12 of the Code of Criminal Procedure. Therefore, the county must withhold the information we have marked under section 552.117(2) of the Government Code.

You assert that some of the submitted information is confidential under section 552.130 of the Government Code. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Therefore, you must withhold the information we have marked pursuant to section 552.130.

Finally, we note that you have highlighted the peace officer's position title. It is unclear whether you wish to withhold this information from required public disclosure. To the extent that you do, neither section 552.117 nor 552.130 is applicable to the position title. Accordingly, you may not withhold the position title from disclosure under any of your claimed exceptions.

To summarize: the county must release the peace officer's accident report form, and all attachments thereto, pursuant to section 550.065(b) of the Transportation Code. You must withhold the information we have marked under section 552.117(2). Motor vehicle information, which we have marked, is excepted from disclosure under section 552.130. The remaining information must be released to the requestor.

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. 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. 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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/sdk

Ref: ID# 168730

Enc: Submitted documents

c: Mr. Aron Pena
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(w/o enclosures)