



November 22, 2002

Mr. Jim Cooley
Operations Sergeant
Earth County Sheriff's Department
1043 Glen Rose Highway
Stephenville, Texas 76401

OR2002-6713

Dear Sgt. Cooley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172728.

You state that the Erath County Sheriff's Department (the "department") received a written request for "an officers [sic] report, all statements of the individuals who filed a complaint, and any other papers dealing with" three cases of assault. You contend that some of the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.130 of the Government Code.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow when it seeks a decision from the attorney general as to whether requested information falls within an exception to disclosure. Among other requirements, the governmental body must submit to this office 1) "a copy of the written request for information," 2) "a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date," and 3) "a copy of the specific information requested, or . . . representative samples of the information if a voluminous amount of information was requested." Gov't Code § 552.301(e)(1)(B), (C), (D). Otherwise, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information." Gov't Code § 552.302. Compelling reasons for non-disclosure exist where the requested information is made confidential by law or affects the property or privacy interests of a third party. Open Records Decision No. 630 at 3 (1994).

We did not receive a copy of the written request in your submission to this office, nor have you provided this office with evidence of when the department received the request or a copy of the information at issue. This office therefore has no basis on which to conclude that the

information you seek to withhold is excepted from required public disclosure. Consequently, we have no choice but to conclude that the requested records are presumed to be public under section 552.302 and therefore must be released to the requestor in their entirety. If you believe the information is confidential and may not lawfully be released, you must challenge the ruling in court as outlined below.

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,



Cindy M. Nettles
Assistant Attorney General
Open Records Division

CMN/RWP/lmt

Ref: ID# 172728

c: Requestor
C/O Jim Cooley, Operations Sergeant
Erath County Sheriff's Department
1043 Glen Rose Highway
Stephenville, Texas 76401