



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 21, 2003

Ms Angela M. DeLuca  
Assistant City Attorney  
City of College Station  
P. O. Box 9960  
College Station, Texas 77842

OR2003-5843

Dear Ms. DeLuca:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 186340.

The College Station Police Department (the "department") received a request for information pertaining to a specified incident. You claim that some of the requested information, or portions thereof, is excepted from disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and have reviewed the submitted information, which includes representative sample documents.<sup>2</sup> We have also considered comments submitted by the requestor. *See Gov't Code § 552.304* (providing that person may submit comments stating why information should or should not be released).

Initially, we note that the submitted information includes Texas Peace Officer's Accident Report forms, which are subject to chapter 550 of the Transportation Code. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. *See Transp. Code § 550.065(b)*. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces

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<sup>1</sup> As the department did not submit to us written comments stating the reasons why section 552.103 of the Government Code would allow any portion of the requested information to be withheld, we find that the department has waived this particular exception to disclosure. *See Gov't Code §§ 552.301, .302.*

<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.

of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4). In this instance, we find that the requestor has provided the department with two of the three pieces of required information under section 550.065(c)(4). Accordingly, we conclude that the department must release the accident report forms that we have marked pursuant to section 550.065(b) of the Transportation Code.

You claim that the remaining submitted information is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. *See* Gov't Code § 552.108(a)(2). You state that the officers associated with the incident in this matter determined that no criminal charges should be brought against anyone involved in the incident. Thus, you contend that the investigation associated with the submitted information did not result in conviction or deferred adjudication. We understand the department to contend from these representations that the submitted information pertains to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. Consequently, we agree that section 552.108(a)(2) is applicable to the remaining submitted information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company 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* Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public, including detailed description of offense). Accordingly, with the exception of basic information that must be released to the requestor, we conclude that the department may withhold the remaining submitted information pursuant to section 552.108(a)(2) of the Government Code.

In summary, the department must release the accident report forms that we have marked pursuant to section 550.065(b) of the Transportation Code. With the exception of basic information that must be released to the requestor, the department may withhold the remaining submitted information pursuant to section 552.108(a)(2) of the Government Code.

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 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 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,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/lmt

Ref: ID# 186340

Enc. Marked documents

c: Mr. J. Patrick Kelley  
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(w/o enclosures)