



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2006

Mr. Christian T. Souza
Assistant Criminal District Attorney
Kaufman County Criminal District Attorney's Office
100 West Mulberry
Kaufman, Texas 75142

OR2006-06111

Dear Mr. Christian:

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# 251304.

The Kaufman County District Attorney (the "district attorney") received a request for information pertaining to a specified incident, specifically (1) any and all records, reports, notes, correspondence, and/or memoranda from the district attorney's investigation, (2) any and all pictures, photographs, videotapes, drawings and/or witness statements, (3) copies of any and all 911 audio tapes, transcripts, or any other emergency communications made in connection with or as a result of the incident, and (4) any and all felony and/or misdemeanor charges filed against any person or persons as a result of the incident, as well as the disposition of such charges. We understand you to have provided the requestor with a portion of the requested information. You claim that the remaining information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes an ST-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (Texas Peace Officer's Accident Report form). Section 550.065(b) of the Transportation

Code states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the 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. Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In the present request, the requestor has provided the required information. Accordingly, the district attorney must release the submitted accident report form pursuant to section 550.065(c).

Section 552.108(a)(2) of the Government Code 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 assert that the information at issue pertains to dismissed cases that did not result in conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, 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 the basic front page offense and arrest information, the district attorney may withhold the information at issue from disclosure under section 552.108(a)(2). We note that the district attorney has the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

Finally, we address your claim that the arrestee's social security number must be withheld pursuant to section 552.147 of the Government Code. Section 552.147 provides that, "[t]he social security number of a living person is excepted from" required public disclosure under the Act.¹ Gov't Code § 552.147. Therefore, the district attorney must withhold the arrestee's social security number in the submitted report under section 552.147 of the Government Code.

In summary, the district attorney must release the submitted accident report form pursuant to section 550.065(c) of the Transportation Code. The district attorney must withhold the

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. See Gov't Code § 552.147(b).

arrestee's social security number under section 552.147 of the Government Code. With the exception of basic information, the district attorney may withhold the remaining submitted information under section 552.108 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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).

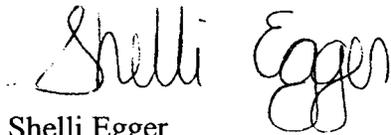
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in cursive script that reads "Shelli Egger".

Shelli Egger
Assistant Attorney General
Open Records Division

SE/sdk

Ref: ID# 251304

Enc. Submitted documents

c: Ms. Nancy McDowell
Legal Assistant
Coop & Scully
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(w/o enclosures)