



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 23, 2007

Mr. Charles K. Eldred
Knight & Partners
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

OR2007-06453

Dear Mr. Eldred:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 279313.

The Manor Police Department (the “department”), which you represent, received a request for all records, including photographs and videotapes, pertaining to a specific traffic accident. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Section 552.108, the “law enforcement exception,” provides in relevant part as follows:

- (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

¹We 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.

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[.]

Gov't Code § 552.108(a)(1), (a)(2). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id* 552.301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, you explain that the submitted exhibits relate to the ongoing criminal investigation and prosecution of one of the drivers for Failure to Control Speed and Disregarding a Stop Sign. You also state that the release of these records will compromise the investigation and prosecution of this matter. Based on your representations and our review of the records, we agree that the department has demonstrated how the release of portions of Exhibit B and all of Exhibits C, D, E, F, G, H, J, and K would interfere with detection, investigation, and prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ refd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108, however, is inapplicable to 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*. We note that the pages you state that you will release as basic information do not contain a detailed description of the offense. The department must release a detailed description of the offense. *See Open Records Decision No. 127 (1976)* (summarizing types of information deemed public by *Houston Chronicle*, including detailed description of offense). The remaining portions of Exhibit B and all of Exhibits C, D, E, F, G, H, J and K may be withheld under section 552.108(a)(1).² We note that you have the discretion to release all or part of these exhibits that is not otherwise confidential by law. *Id.* § 552.007.

Exhibit I is copy of the citation that was written to the defendant. As the defendant has already been provided with this document, you have not established how release of the citation to the general public will interfere with the investigation and prosecution of these cases. Accordingly, Exhibit I may not be withheld under section 552.108.

You assert, however, that Exhibit I contains motor vehicle information that is excepted from disclosure under section 552.130. Section 552.130 of the Government Code excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *Id.* § 552.130(a)(1), (2). Upon review, we agree that the department must withhold the marked Texas-issued motor vehicle information from disclosure under section 552.130. The

²Because we are able to make a determination under section 552.108, we need not address your additional arguments against the disclosure of Exhibit E.

remaining portions of Exhibit I must be released. We also note that the first three pages of Exhibit B contain motor vehicle information of individuals other than the requestor's clients. We have marked the information in Exhibit B that is also protected by section 552.130.

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).

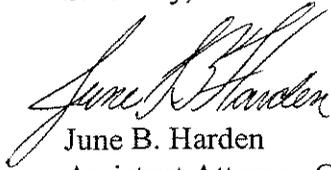
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/sdk

Ref: ID# 279313

Enc: Submitted documents

c: Mr. Craig Carlson
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(w/o enclosures)