



December 23, 1999

Mr. Allen Smiley  
Texas Department of Public Safety  
5805 N. Lamar Blvd.  
Box 4087  
Austin, TX 78773-0001

OR99-3751

Dear Mr. Smiley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#131213.

The Texas Department of Public Safety (the “department”) received a request for an accident report including “any and all photographs, videos, sketches, etc.” of a motor vehicle fatality accident that occurred on July 29, 1999 at Highway 290 and Skinner Road. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. You state that the investigating Trooper is still investigating the incident and anticipates filing criminal charges relating to the incident in the near future. Accordingly, we find that release of the requested information would interfere with the detection, investigation, or 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 ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, we conclude that you may withhold the information under section 552.108(a)(1).

Section 552.108, however, does not apply to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information is considered to be information held as public in *Houston Chronicle Publishing Co. v. City of Houston*. See Open Records Decision No. 127 (1976).

Because we are able to make a determination under section 552.108 of the Government Code, we need not address your claim under section 552.103.<sup>1</sup> 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 Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

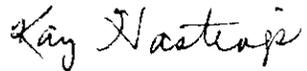
If the governmental body, the requestor, or any other person has questions or comments

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<sup>1</sup>Generally, basic information is not excepted from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/KSK/jc

Ref: ID#131213

Encl. Submitted documents

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