



January 7, 2000

Ms. Cynthia Reed
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2000-0078

Dear Ms. Reed:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#130983.

The City of College Station Police Department (the "department") received a request for police report numbers 99-009927, 98-005429, 98-005339, 98-000586, and 97-003837. You state that you have released some of the requested information to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.003, 552.101, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

First, we address your section 552.003 claim. Section 552.003(1)(B) provides that the judiciary is not a governmental body and therefore is not subject to the Public Information Act. You assert that police report number 98-005429 contains a copy of a court order, which is a record of the judiciary, and therefore, the court order is not subject to the Public Information Act. However, section 552.002 defines "public information" as information that is collected, assembled, or maintained by a governmental body in connection with the transaction of official business. Although the court order has been filed with and is maintained by the court, the department also maintains a copy of the court order. Accordingly, the court order is public information that is subject to the Public Information Act. Because the court order has been filed with a court, it is a public document that must be released. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (information filed with a court is generally a matter of public record and may not be withheld from disclosure).

Next, we will consider your section 552.108 claim. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than

conviction or deferred adjudication. You assert that each of the five police reports pertains to an investigation that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that you may withhold most of the information under section 552.108(a)(2).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such 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 report information, you may withhold the offense reports from disclosure based on section 552.108(a)(2). Because section 552.108(a)(2) excepts the information that you assert is protected by common law privacy under section 552.101, we do not address your privacy arguments.

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.

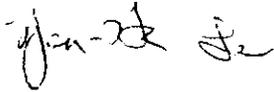
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/KSK/ljp

Ref: ID#130983

Encl. Submitted documents

cc: Ms. Ginger Younts
2602 Cumberland
College Station, Texas 77845
(w/o enclosures)