



April 10, 2000

Ms. Kristi DeCluitt
Assistant City Attorney
Post Office Box 9960
College Station, Texas 77842

OR2000-1391

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135380.

The City of College Station (the “city”) received a request for all documents relating to an accident that occurred on FM 60 on October 10, 1999. The requestor seeks disclosure of all records relating to the accident, including police reports, supplemental reports, photographs, scale diagrams, and witness statements. You state that this office has formerly rendered a decision on a portion of the responsive information, an accident report, and that the remaining information, the photographs, is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. We have considered the exception you claim and reviewed the information submitted.

You explain that the requested information, with the exception of the photographs, is the same as that sought in an earlier public information request which was ruled upon by this office in Open Records Letter No. 2000-0989 (2000). Open Records Letter No. 2000-0989 concluded that the city could withhold the requested information under section 552.108(a)(2) because the information pertained to a case that concluded in a result other than conviction or deferred adjudication. Therefore, you may withhold the information which was the subject of the former request in accordance with Open Records Letter No. 2000-0989.

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime

... if ... it is 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[.]” You explain that the photographs pertain to the same accident at issue, a case which concluded in a result other than conviction or deferred adjudication. Based upon this representation, we find that the photographs are also excepted from disclosure pursuant to section 552.108(a)(2).

This letter ruling is limited to the particular records at issue in this request and 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 Department 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,

A handwritten signature in black ink that reads "Julie Reagan Watson". The signature is written in a cursive, flowing style.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/cwt

Ref: ID#135380

Encl. Submitted documents

cc Ms. Benita Alexander-Noel
Dateline NBC, 5th Floor
30 Rockefeller Plaza
New York, New York 10112
(w/o enclosures)