



July 11, 2000

Ms. Stacy J. Anderson
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2000-2578

Dear Ms. Anderson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136950.

The City of College Station (the "city") received a request for the investigation file of accident case number 99-001814. You relate that you will release the responsive Texas Peace Officer's Accident Reports¹ and a press release. You claim that other responsive information is excepted from disclosure under section 552.108 of the Government Code. You also claim that certain responsive information is excepted from public disclosure by chapter 159 of the Occupations Code. You seek to withhold a report titled "College Station Police Department Supplementary Report," with attached accident scene photographs and medical records. You have submitted the responsive information to this office for review.² Attorneys representing one of the drivers involved in the subject incident have also provided comments to this office. We have considered the exception you claim and the comments of the interested third party and have reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation,

¹ You are required to release this information under section 47(b)(1) of article 6701d, V.T.C.S., when properly requested.

² You indicate that the photographs submitted are a representative sample. We assume that a "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.

or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. Unless information relating to a criminal investigation or prosecution concluded in a result other than a conviction or deferred adjudication, it may not be withheld under section 552.108(a)(2). You inform this office that charges of negligent homicide were filed against one of the drivers in the subject accident, but that those charges have been dropped by the prosecuting attorney and no further charges are pending. The information related to this investigation may therefore be withheld under section 552.108(a)(2) of the Government Code. You indicate that you have released the “front page” information made public by *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) (delineating types of information that must be released). Open Records Decision No. 127 (1976); *see also* Gov’t Code § 552.108(c).

We note that exhibit C of the submitted information includes what appears to be medical records. Access to medical records is governed by chapter 159 of the Occupation Code. These records may be released only in compliance with the release provisions of that chapter. Although the city is permitted to withhold the responsive information under section 552.108, other than the medical records, the city may release any portion of the submitted information.

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).

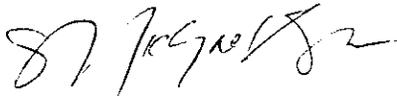
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 136950

Encl Submitted documents

cc: Mr. Gregg James
United Services Automobile Assn.
10850 Richmond Avenue, Suite 175
Houston, Texas 77042
(w/o enclosures)