



June 25, 2001

Mr. Karl W. Allman  
Chief of Police  
City of Blue Mound  
301 Blue Mound Road  
Blue Mound, Texas 76131

OR2001-2693

Dear Mr. Allman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148944.

The Blue Mound Police Department (the "department") received a request for records which reflect a breakdown of the four training hours required for one to be certified as a school crossing guard as well as a request for court records related to the dismissal of a particular charge against a specific person. You have not submitted any information pertaining to the first portion of this request. We, therefore, presume that to the extent that information pertaining to school crossing guard training exists, that information has been released to the requestor. *See Gov't Code §§ 552.006, .301, .302; see also Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).* As for the submitted court records, you assert that these documents are excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and have reviewed the submitted information.

We note at the outset that the Public Information Act (the "Act") does not apply to records of the judiciary. *See Gov't Code § 552.003(1)(B).* You state that "[t]he court records are kept by my department since we have a 'Visiting Judge'." We are unable to determine from this statement or from our review of the submitted documents whether these records are maintained by your department solely on behalf of the municipal court acting in its judicial capacity or whether the documents are maintained by the department under its law enforcement authority. Thus, if the submitted documents are maintained solely on behalf of

the municipal court, they are not subject to the Act. *But see* Attorney General Opinion DM-166 (1992); Open Records Decision No. 618 (1993) (acknowledging common law right to copy and inspect certain judicial records). However, if the submitted documents are maintained by the department pursuant to the department's own authority, they are subject to the Act and must be released unless excepted from disclosure.

Before, we address the department's arguments against disclosure, we note that one of the submitted documents appears to have been filed with a court. Information filed with a court is generally a matter of public record and may not be withheld from disclosure. *See* Gov't Code § 552.022(a)(17); *see also* *Star Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Accordingly, we have marked the document that must be released under section 552.022(a)(17) of the Government Code.

You assert that the submitted documents are excepted from disclosure under section 552.108 of the Government Code. Section 552.108 provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted . . . if:

....

(2) 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;

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted . . . if:

....

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a), (b). Generally, a governmental body claiming section 552.108(a)(2) as an exception to disclosure of requested information must demonstrate that the information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state, and the submitted information indicates, that the case was dismissed. Since the investigation into this matter concluded in a final result other than conviction or deferred adjudication, we conclude that you may withhold the remaining submitted documents under section 552.108 of the Government Code. We note, however, that under section 552.108, you have the discretion to release all or part of the remaining documents that are not otherwise confidential by law.

to release all or part of the remaining documents that are not otherwise confidential by law. Gov't Code § 552.007; *see, e.g.*, Gov't Code § 552.130 (stating that Texas driver's license numbers are confidential by law).

In summary, the submitted documents are exempt from the Act if they are maintained solely on behalf of the municipal court acting in its judicial capacity. However, if the submitted documents are maintained by the department pursuant to its own authority, you must release the marked document which appears to have been filed with the court. Otherwise, you may withhold the remaining documents pursuant to section 552.108 of the Government Code.

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).

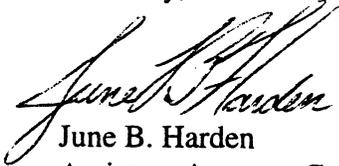
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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 General Services Commission 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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RJB/seg

Ref: ID# 148944

Enc: Marked documents

cc: Mr. A. R. Perkins  
1669 Gill  
Blue Mound, Texas 76131  
(w/o enclosures)