



June 28, 2001

Ms. Amanda Crawford
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2001-2780

Dear Ms. Crawford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148850.

The Office of the Attorney General (the "OAG") received a written request for certain records held by the OAG in connection with its representation of the Texas Department of Criminal Justice ("TDCJ") in a civil lawsuit. You have submitted to this office for review the responsive documents and contend that the requested information is excepted from disclosure under sections 552.103, 552.108(b)(2), and 552.131 of the Government Code.

We note at the outset that the information you have submitted to this office as responsive to the request constitutes a "completed report . . . or investigation made of, for, or by a governmental body" that is specifically made public under section 552.022(a)(1) of the Government Code "except as provided by section 552.108." Section 552.108(b)(2) excepts from public disclosure "[a]n 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," but only where "an investigation . . . did not result in conviction or deferred adjudication." The records at issue reflect an investigation conducted by TDCJ into the cause of an explosion that occurred during the transportation of a prison inmate. The records reveal that the investigation, at least initially, was criminal in nature. You have informed this office that the criminal investigation did not result in a conviction or deferred adjudication. We therefore conclude that the OAG may withhold most of the information at issue pursuant

to section 552.108(b)(2). *See* Open Records Decision No. 567 (1990) (exceptions to disclosure that apply to records held by governmental body also apply to such records held by governmental body's agent).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). We therefore conclude that the OAG must release these types of information in accordance with *Houston Chronicle Publishing Company 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).¹

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).

¹Because we resolve your request under section 552.108, we need not address the applicability of the other exceptions you raised except to note that "basic information" is not protected from public disclosure under section 552.103, *see* Open Records Decision No. 597 (1991), or section 552.131. *See* Gov't Code § 552.029(8) ("basic information regarding . . . an alleged crime involving an inmate" subject to required public disclosure).

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RWP/seg

Ref: ID# 148850

Enc. Submitted documents

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(w/o enclosures)