



August 15, 2001

Ms. Pamela Smith  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2001-3583

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 150707.

The Texas Department of Public Safety (the "department") received a request for information relating to a fatal automobile accident. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you raise and have reviewed the information you submitted.

We first address the department's failure to comply with section 552.301 of the Government Code in requesting this decision. Section 552.301 prescribes procedures that a governmental body must follow in asking this office to decide whether requested information may be withheld from public disclosure. Section 552.301(e)(1)(B) provides that a governmental body that requests an attorney general decision under section 552.301 must submit a copy of the written request for information to this office not later than the fifteenth business day after the date of receiving the request. Section 552.302 provides that if a governmental body does not comply with section 552.301 in requesting our decision, the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

You inform this office that the department received the request for the submitted information on May 31, 2001. The department then had fifteen business days, or until and including June 21, 2001, in which to submit a copy of the request to this office under section 552.301(e)(1)(B). As of the date of this decision, this office had not received the required copy of the request for information. Consequently, the requested information is presumed to be public and must be released under section 552.302, unless there is a compelling reason why it should be withheld from disclosure. *See also Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ).

The presumption that information is public under section 552.302 generally can be overcome by demonstrating that the information is confidential by law or that third party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). The need of another governmental body to withhold information under section 552.108 also can provide a compelling reason under section 552.302. *See* Open Records Decision No. 586 at 3 (1991). Although you raise section 552.108, you do not demonstrate a compelling reason to withhold the requested information under this exception. Therefore, the requested information must be released.

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).

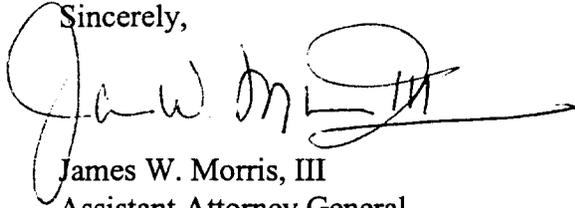
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 150707

Enc: Submitted documents

c: Ms. Jennifer Shupak  
Texas Farm Bureau Insurance Companies  
505 University Drive East, Suite 707  
College Station, Texas 77860-0000  
(w/o enclosures)