



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

April 30, 2003

Mr. Matthew C. G. Boyle  
Boyle & Lowry, L.L.P.  
4201 Wingren, Suite 108  
Irving, Texas 75062-2763

OR2003-2911

Dear Mr. Boyle:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 180359.

The Farmers Branch Police Department (the "Department"), which you represent, received a request for the following three categories of information:

1. Any arrests or criminal records from August 2002 through December 2002 that pertain to a named individual.
2. Arrest records related to charges for possession of a controlled substance in August 2002.
3. Arrest records related to charges for possession of a controlled substance in November 2002.

You inform us the Department has released some of the requested information; however, you assert the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have reviewed the information you submitted and we have considered the exceptions you claim.

Initially, we note you have submitted unresponsive information for our review. Category one of the request encompasses records from August 2002 through December 2002. Therefore, we conclude the submitted information dated prior to August 2002 is outside the scope of this request. Accordingly, this ruling does not address the releasability of this information.

Next, we note you have not submitted information responsive to category two of the request for our review. We assume that if this information exists, then the Department has released it to the requestor. If the Department has not released such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Lastly, with respect to the submitted information responsive to category three of the request, we address your assertion under section 552.108 of the Government Code. Section 552.108(a)(1) states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us the submitted information pertains to a pending investigation by the Department. Therefore, we believe the release of this information "would interfere with the detection, investigation, or prosecution of crime." *Id.* Thus, the Department may withhold the responsive information in Exhibit B based on section 552.108 of the Government Code.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *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). We note basic information as described in *Houston Chronicle* does not include the information covered by section 552.130 of the Government Code.<sup>1</sup> Therefore, the information covered by section 552.130 is already excepted by section 552.108 of the Government Code.

In summary, this ruling does not address the releasability of the unresponsive material submitted by the Department. With the exception of basic information, the Department may withhold the remaining portion of Exhibit B under 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.*

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<sup>1</sup> Section 552.130 excepts from public disclosure information relating to a driver's license or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130.

§ 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 Dep't of Pub. 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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Christen Sorrell  
Assistant Attorney General  
Open Records Division

CHS/seg

Ref: ID# 180359

Enc: Submitted documents

c: Ms. Vicky Wilborn  
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(w/o enclosures)