



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

August 12, 2003

Ms. Bonnie Lee Goldstein
Bonnie Lee Goldstein, P.C.
P.O. Box 595520
Dallas, Texas 75359

OR2003-5588

Dear Ms. Goldstein:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 185861.

The Princeton Police Department (the "department"), which you represent, received a written request for all records pertaining to the arrest of the requestor. You contend that the requested information is excepted from required disclosure pursuant to section 552.103 of the Government Code.

We note at the outset that the requested records are specifically made public under section 552.022 of the Government Code. Section 552.022(a) provides in pertinent part as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or *investigation* made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1) (emphasis added). Because the requested records pertain to a completed criminal investigation, they are expressly made public under section 552.022.

Therefore, the department may withhold those records only if they are made confidential under other law or are excepted from public disclosure pursuant to section 552.108.¹ Although you argue that the requested records are excepted under section 552.103 of the Government Code, this provision is a discretionary exception and therefore is not “other law” for purposes of section 552.022. *See, e.g.*, Open Records Decision Nos. 665 at 2 n.5 (2000) (governmental body may waive section 552.103). Consequently, the department may not withhold any of the information at issue pursuant to section 552.103. Because you have not raised an applicable exception to required public disclosure, the requested records must be released in their entirety, with the following exception.

We note that the submitted information contains an individual’s driver’s license number. Section 552.130(a)(1) of the Government Code requires the department to withhold “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.” Accordingly, the department must withhold the Texas driver’s license number that we have marked pursuant to section 552.130(a)(1) of the Government Code.²

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

¹We note that you do not contend that the requested records are excepted from public disclosure pursuant to section 552.108.

²We note, however, that the requestor has a special right of access to her own driver’s license number as well as her own social security number. *See* Gov’t Code § 552.023.

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,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/RWP/seg

Ref: ID# 185861

Enc: Submitted documents

c: Ms. Sheryl Hill
165 South 4th Street #32
Princeton, Texas 75407
(w/o enclosures)