



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 12, 2004

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

OR2004-8639

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 212274

The Office of the Attorney General (the "OAG") received a request for all claim files pertaining to a specific applicant for crime victims' compensation. You claim that the requested records are excepted from disclosure in their entirety under section 552.132 of the Government Code. We have considered your claimed exception to disclosure and have reviewed the submitted information.

Section 552.132 of the Government Code provides in pertinent part as follows:

- (a) In this section, "crime victim" means a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, who has filed an application for compensation under that subchapter.
- (b) A crime victim may elect whether to allow public access to information held by the crime victim's compensation division of the attorney general's office that relates to:
 - (1) the name, social security number, address, or telephone number of the crime victim; or
 - (2) any other information the disclosure of which would identify or tend to identify the crime victim.

(c) An election under Subsection (b) must be:

- (1) made in writing on a form developed by the attorney general for that purpose and signed by the crime victim; and
- (2) filed with the crime victims' compensation division before the third anniversary of the date that the crime victim filed the application for compensation.

Gov't Code § 552.132. In one of the submitted claim files, the crime victim elected to withhold her identifying information from disclosure under section 552.132(b). In the other file, the crime victim did not make an election under section 552.132(b). Pursuant to section 552.132(c)(2), a crime victim is afforded three years from the date of filing the application for compensation to make the election. Since the necessary three years have not elapsed, we conclude that the identifying information of the crime victim contained in the second file is also protected from disclosure. In most cases, the OAG would only be allowed to withhold the crime victim's identifying information from public disclosure. In this instance, however, the requestor knows the identity of the crime victim. Thus, withholding only the identifying information would not effectuate the purpose of the statute. Accordingly, we agree that the OAG must withhold the documents in their entirety under section 552.132 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

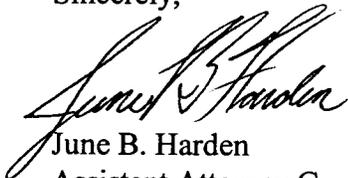
governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The 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 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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 212274

Enc: Submitted documents

c: Lt. Eddie Wilson
Copperas Cove Police Department
202 South 4th Street
Copperas Cove, Texas 76522
(w/o enclosures)