



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2004

Ms. April M. Virnig
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107-4654

OR2004-10701

Dear Ms. Virnig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 215551.

The City of Southlake (the "city"), which you represent, received a request for information related to a particular traffic stop, including a video tape of the stop. You claim that the requested information is excepted from disclosure under sections 552.119 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.119 excepts from public disclosure a photograph of a peace officer that, if released, would endanger the life or physical safety of the officer unless one of three exceptions applies. Gov't Code § 552.119. The three exceptions are: (1) the officer is under indictment or charged with an offense by information; (2) the officer is a party in a fire or police civil service hearing or a case in arbitration; or (3) the photograph is introduced as evidence in a judicial proceeding. *Id.* This section also provides that a photograph excepted from disclosure under this section may be made public, only if the peace officer gives written consent to the disclosure. *Id.* In this instance, you have not demonstrated, nor is it apparent from our review of the submitted videotapes, that the release of any portion of the videotapes would endanger the life or physical safety of any officer depicted in these videotapes. Accordingly, we conclude that the city may not withhold any portion of the submitted videotapes under section 552.119 of the Government Code.

Section 552.130 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 . . . [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Consequently, pursuant to section 552.130, the city must withhold the submitted citation and video tapes to the extent that they include Texas-issued driver's license and license plate information, including classes, restrictions, and expiration dates, as well as vehicle identification numbers that pertain to vehicles for which an agency of this state has issued a certificate of title or registration.

In summary, to the extent the submitted citation and video tapes contain motor vehicle record information, it must be withheld under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.

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,



Lauren E. Kleine
Assistant Attorney General
Open Records Division

LEK/jev

Ref: ID# 215551

Enc. Submitted documents

c: Mr. Eric Newton
1106 La Paloma Court
Southlake, Texas 76092
(w/o enclosures)