



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2005

Mr. Steven A. Wood
Taylor, Olson, Adkins, Sralla, & Elam
6000 Western Place, Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107-4654

OR2005-06568

Dear Mr. Wood:

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# 228579.

The Granbury Police Department (the "department"), which you represent, received a request for "all requests for, release or and review of any and all police juvenile records by the Granbury city manager . . . from January 1, 2004 to March 1, 2005." You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also reviewed comments submitted by the requestor as well as by the Hood County District Attorney (the "district attorney"). *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

We first note that the requestor seeks any and all documentation related to requests for juvenile records made by the city manager. You have submitted information related to only one request. If other police reports involving juveniles have been released to the city manager per his request, any documentation related to those requests would also be responsive to the instant request for information. We assume that, to the extent any remaining information responsive to the instant request existed on the date the department received the request, such information has been released to the requestor. If you have not released any such information, you must do so at this time. *See Gov't Code §§ 552.301, .302; Open Records Decision No. 664 (2000)* (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under circumstances). We caution, however, that section 552.352 of the Act imposes criminal penalties for the release of confidential information.

We next note that the requestor, in his request letter, states that he does not want the police reports themselves, "only information regarding the request, review and release of police juvenile records." In his letter to this office, the requestor reiterates that he is not seeking the juvenile records. On this basis, we conclude that the submitted "Incident Report 0403392" and the "Incident Narrative 0403392" are not responsive to the request for information and need not be released to the requestor.

We now address your argument under section 552.108 of the Government Code for the remaining submitted information. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You assert that the remaining submitted information pertains to a criminal investigation conducted by the district attorney that did not result in a conviction or deferred adjudication. In his correspondence to this office, the district attorney has confirmed that his investigation of the matter has concluded and did not result in conviction or deferred adjudication. Consequently, we find that the department may withhold the remaining submitted information under section 552.108(a)(2).¹

In summary, Incident Report 0403392 and Incident Narrative 0403392 are not responsive to the request and need not be released to the requestor. The remaining submitted information may be withheld under section 552.108(a)(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, upon receiving this ruling, the governmental body

¹As we are able to make this determination, we need not address your claim under section 58.007 of the Family Code for this information.

will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/krl

Ref: ID#228579

Enc. Submitted documents

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