



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2007

Mr. David M. Berman
Nichols Jackson Dillard Hager & Smith, L.L.P.
For the City of Duncanville
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2007-12043

Dear Mr. Berman:

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# 289344.

The City of Duncanville (the "city"), which you represent, received a request for a list of all traffic accidents involving police officers for the years 2005 until the present including the names, badge numbers, and ranks of the officers involved; the dates of accidents; fault; status of any lawsuits filed or pending; and any settlements. You state that you have released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have not submitted information relating to the status of any lawsuit filed or any settlement. Therefore, to the extent this information existed on the date the city received this request, we assume that it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. The information at issue consists of ST-3 and CRB-3 accident report forms completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except

as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has not provided the city with two of the three required pieces of information. Thus, you must withhold the accident reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

We note that some of the remaining submitted information is subject to section 552.117 of the Government Code.¹ Section 552.117(a)(2) of the Government Code exempts from disclosure the home address, home telephone number, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code.² We have marked the information that the city must withhold under section 552.117(a)(2).

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See Gov't Code* § 552.130(a)(1). The city must withhold the information we have marked under section 552.130.

In summary, the submitted accident reports must be withheld under section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code. The city must withhold the information we have marked under sections 552.117 and 552.130 of the Government Code. The remaining submitted information must be released.

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

¹Unlike other exceptions to disclosure under the Act, this office will raise section 552.117 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See Gov't Code* §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

² Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure.

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 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); *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 Office of the Attorney General 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. 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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 289344

Enc. Submitted documents

c: Mr. Bennett Cunningham
Investigative Reporter- CBS 11
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Fort Worth, Texas 76103
(w/o enclosures)