



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 15, 2008

Mr. Steven Kean
Deputy City Attorney
City of Tyler
P. O. Box 2039
Tyler, Texas 75710

OR2008-14147

Dear Mr. Kean:

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# 324665.

The Tyler Police Department (the "department") received a request for the name, address, and ticket numbers of persons receiving a traffic violation from July 1, 2008 to the date of the request. You claim that the requested information is not subject to disclosure under the Act. Alternatively, you claim that some of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the arguments you claim and reviewed the submitted representative sample of information.¹

Initially, we note that the requestor only requested the names, addresses, and ticket numbers of individuals who received a traffic violation. Because the names, addresses and ticket numbers are the only information requested, the majority of the information you have submitted is not responsive and need not be released in response to this request.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Next, we address your argument that the responsive information from the department's citation data base is not subject to the Act. The Act is only applicable to "public information." See Gov't Code § 552.021. Section 552.002(a) defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." *Id.* § 552.002(a). Section 552.301(1)(B) specifically excludes from the Act records of the judiciary. *Id.* § 552.003(1)(B) You state that the responsive citation information is taken from a department database that is maintained on a department server. However, you argue that this information is pulled directly from another database maintained by the Tyler Municipal Court, and thus constitutes records maintained by the judiciary. Although we acknowledge that the Tyler Municipal Court's own database records are not subject to the Act, in this instance you state that the submitted citation information was obtained from the department's own database. You also acknowledge that this database is maintained by the department for use in law enforcement investigations. Thus, because the responsive information from the department database is maintained by the department itself and is used connection with the department's official business, we conclude that this information is subject to the Act. Accordingly, we will address your argument against disclosure of this information under section 552.108 of the Government Code.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Id. § 552.108(a)(1)-(b)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See *id.* In this instance you have only generally asserted that the address information of individuals who were cited but not arrested is excepted from disclosure under section 552.108. However, you have not provided any arguments

explaining how section 552.108 applies to any of the specific information at issue. Thus, the department has failed to demonstrate that the release of this information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Therefore, the department may not withhold any of the requested information under section 552.108. As you raise no other exception to disclosure of this information, it 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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).

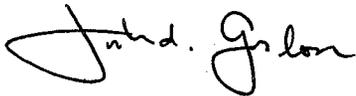
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/eeg

Ref: ID# 324665

Enc. Submitted documents

c: Mr. Jeffery L. Weinstein
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(w/o enclosures)