



July 20, 2000

Ms. Judith A. Hunter
Paralegal
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2000-2744

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137251.

The City of Georgetown (the "city") received a request for information related to an incident involving the accidental electrocution of an individual. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

The submitted information consists of two completed reports, one from the city fire department, the other from the city police department. Section 552.022(a)(1) of the Government Code makes a completed report public and not excepted from required disclosure under chapter 552 of the Public Information Act unless the report is expressly confidential under other law or excepted from disclosure under section 552.108. Gov't Code § 552.022(a)(1). Section 552.103 is an exception under the Public Information Act and is not other law that makes the requested information confidential. Accordingly, the submitted information may not be withheld from disclosure pursuant to section 552.103 of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." As discussed above, the submitted information

contains a report prepared by the city fire department. This office has determined that an arson investigation unit of a fire department is a law enforcement agency for purposes of the statutory predecessor to section 552.108. Open Records Decision No. 127 (1976). In this instance, however, you do not inform us, nor does the information indicate, that the submitted report was prepared by the city fire department's arson investigation unit. Therefore, we do not believe that the report is information held by a law enforcement agency that deals with the detection or investigation of crime. Thus, you may not withhold from disclosure the fire department's report under section 552.108(a)(2). Likewise, although the remaining report was prepared by the city police department, we do not believe it involves the "detection, investigation, or prosecution of *crime*" as contemplated by section 552.108. Therefore, you may not withhold from disclosure the police incident report. You must release the submitted information 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 Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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,

A handwritten signature in cursive script that reads "Carla Gay Dickson".

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 137251

Encl. Submitted documents

cc: Mr. Douglas A. McAninch, P.C.
Attorney at Law
1001 Texas Avenue, Suite 1010
Houston, Texas 77002-3199
(w/o enclosures)