



March 2, 2000

Mr. J. Robert Giddings  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR2000-0844

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134410.

The University of Texas at Austin (the "university") received a request for information related to the cancellation of a speech by Mr. Henry Kissinger. The request is similar to, although substantially broader than, the request in Open Records Letter No. 2000-0702 (2000). You state that you have released some of the requested information, but that the submitted police intelligence reports and draft memoranda regarding security procedures are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. You further explain that some of the requested information does not exist. We have considered the exceptions you claim and reviewed the submitted information.

The police intelligence reports were also at issue in Open Records Letter No. 2000-0702. Thus, you must withhold or release the police intelligence reports in compliance with that ruling. We will consider your claimed exceptions for the two draft memoranda.

Section 552.108 of the Government Code provides:

(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; [or]

(2) 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[.]

(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; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a), (b).

One of the memoranda, dated January 20, 2000, outlines security measures planned by the police for crowd control and security to the person of Mr. Kissinger and state property. After careful review of this memorandum, we conclude section 108(b)(1) applies. The memorandum is an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement the release of which would interfere with law enforcement. You may withhold the memorandum.

The second memorandum was addressed to the Lyndon Baines Johnson Library and Museum, but never sent. Thus, it appears to be a law enforcement record maintained for internal use in a matter relating to an investigation that did not result in conviction or deferred adjudication. Thus, Government Code section 552.108(b)(2) applies. You may withhold the requested information.

In summary, you may withhold the intelligence reports less basic information pursuant to Open Records Letter No. 2000-0702, and you may withhold both draft memoranda.

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/CHS/ljp

Ref: ID# 134410

Encl. Submitted documents

cc: Mr. Kevin Page  
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(w/o enclosures)