



May 18, 2000

Mr. Rex McEntire  
City Attorney  
City of North Richland Hills  
P.O. Box 820609  
North Richland Hills, Texas 76182-0609

OR2000-1981

Dear Mr. McEntire:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136043.

The City of North Richland Hills received four requests for information pertaining to the North Richland Hills Police Department. You inform us that the city will release most of the responsive information to the requestors. However, you claim that the responsive information relating to the internal affairs investigation of a police raid on December 15, 1999 is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

As amended by the Seventy-sixth Legislature, section 552.022 of the Government Code provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, *the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:*

(1) *a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]*

Gov't Code § 552.022(a)(1) (emphasis added). The submitted information appears to this office to be a completed investigation made for or by the North Richland Hills Police Department. You did not invoke the protection of section 552.108 for the submitted information. In addition, because section 552.103 is a discretionary exception under the Public Information Act and is not "other law" that makes the requested information confidential, the information cannot be withheld under section 552.103. *See* Open Records Decision No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's interest, and does not itself make information confidential). Accordingly, we find that the submitted information is public information that must be released to the requestor pursuant to section 552.022(a)(1) of the Government Code.

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,



Kathryn S. Knechtel  
Assistant Attorney General  
Open Records Division

KSK/nc

Ref: ID# 136043

Encl. Submitted documents and audio tapes

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