OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

June 21, 2000

Mr. Thomas Keever
Assistant District Attorney
County Of Denton
P.O. Box 2850
Denton, Texas 76202

OR2000-2364

Dear Mr. Keever:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136744.

The Denton County Health Department (the "department") received a written request for, among other things, documents pertaining to all complaints filed with the department by a named individual. You state that the department has released some responsive information to the requestor. You contend, however, that other responsive information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

Section 552.108(a) 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 . . . ." In this instance, you have not adequately demonstrated to this office that the department is a "law enforcement agency" for purposes of section 552.108. *See* Attorney General Opinion MW-575 (1982) (regulatory agency not "law enforcement agency," even though it is charged with duty of enforcing its own statute); Open Records Decision No. 199 (1978) (same). Nor have you demonstrated that a law enforcement agency or prosecutor maintains an interest in withholding the information at issue from the public at the present time. *See, e.g.*, Open Records Decision No. 586 (1991). We conclude, therefore, that you have not met your burden of demonstrating the applicability of section 552.108 to the information at issue. Because you have raised no other exception to public disclosure, the department must release the information at issue in its entirety.

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,

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/RWP/ljp

Ref: ID# 136744

Encl. Submitted documents

cc: Mr. Robert Hawk
Mid Tex Service Incorporated
10721 Fincher Road
Argyle, Texas 76226
(w/o enclosures)