



August 24, 2000

Mr. Cliff Grumbles
Deputy Director
Texas Commission on Private Security
4930 South Congress Avenue, Suite C-305
Austin, Texas 78745

OR2000-3249

Dear Mr. Grumbles:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 139678.

The Texas Commission on Private Security (the "commission") received a request for forty-four categories of information, with multiple subcategories, apparently related to a former employee of the commission. The commission did not expressly raise any exception to disclosure that it contends applies to the responsive information. However, its comments raise sections 552.103 and 552.108 of the Government Code to protect the interests of the commission. The commission did not provide any information responsive to this request to this office for review.

Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. As noted above, you did not submit to this office copies or representative samples of the specific information that was requested.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of*

Ins., 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown such a compelling interest to overcome the presumption that the information at issue is public. Accordingly, you must release the requested information.¹

The request for information references earlier requests. In addition, the requestor has provided comment to this office, which includes copies of written requests for information dated July 20, 2000, July 25, 2000, and July 27, 2000, that she purports to have submitted to the commission. The commission did not submit a request for decision to this office regarding these other requests by this requestor. If it has not done so already, the commission must release all information responsive to those written requests for which it has not submitted a request for decision from this office.² See Gov't Code §§ 552.021, 552.301, 552.302.

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)

¹We note that several of the categories of the request are in the form of questions. A governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 (1990). However, the Public Information Act does not require a governmental entity to perform legal research or to answer general questions. Open Records Decision No. 563 at 8 (1990).

²We caution that release of confidential information is made criminal by section 552.352 of the Government Code. Since you have submitted no information for our review we cannot determine the confidentiality of the responsive information. If you believe that any portion of the responsive information is confidential you must challenge this decision as outlined herein.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 139678

cc: Ms. Carol Proctor Davis
16306 Jersey Drive
Houston, Texas 77040