



August 30, 2001

Ms. Julie Reagan Watson  
Assistant General Counsel  
Texas Department of Human Services  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2001-3836

Dear Ms. Watson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151372.

The Texas Department of Human Services (the "department") received four related requests for information from the same individual. Three of the requests are for a department regional attorney's written opinion, and the fourth is for the comments that the department submitted to this office in requesting this decision. You inform this office that the requestor has been provided with a copy of the department's written comments, dated June 25, 2001, and an explanation of the process through which you requested our decision. You claim that the requested attorney's opinion, which you have submitted for our review, is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you raise and have reviewed the submitted information. We also have reviewed the written comments that we received from the requestor. *See* Gov't Code § 552.304 (permitting any person to submit written comments to this office stating why information at issue in request for attorney general decision should or should not be released).

Section 552.107(1) of the Government Code protects information that comes within the attorney-client privilege. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from disclosure only what rule 1.05 of the Texas Disciplinary Rules of Professional Conduct defines as "privileged information," that is, either client confidences or the attorney's legal advice or opinions. *See* ORD 574 at 5. Section 552.107(1) does not apply to all client information held by a governmental body's attorney. *Id.* Section 552.107(1) does not protect purely factual information. *Id.* Thus, this exception does not except from disclosure the factual recounting of events or the documentation of calls made, meetings attended, and memos sent. *Id.* You represent to

this office that the information at issue consists entirely of client confidences and an attorney's legal opinion. Based on these representations and our review of the submitted information, we conclude that this information is excepted from disclosure in its entirety under section 552.107(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).

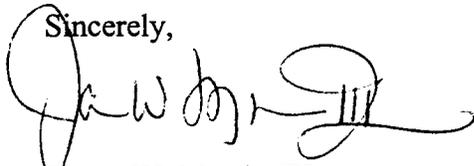
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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 black ink, appearing to read 'J W Morris III', written in a cursive style.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 151372

Enc: Submitted document

c: Mr. Pablo I. Jaramillo  
8225 Leopard Street, #34  
Corpus Christi, Texas 78409  
(w/o enclosure)