Office of the Attorney General · State of Texas
John Cornyn

November 29, 2001

Ms. Sharlon Ivory
Records Secretary
Lancaster Police Department
1501 North Dallas Avenue
Lancaster, Texas 75134

OR2001-5560

Dear Ms. Ivory:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155439.

The Lancaster Police Department (the "department") received a request for copies of all complaints that a specified person and company have filed against anyone over the past ten years and all complaints that have been filed against the specified person over the past 10 years.

We note that upon receipt of the request, you were required to either release the requested information or seek a decision to withhold the information as required by section 552.301 of the Government Code. Although you submitted a letter to our office acknowledging that you had received the written request, you do not argue in that letter that the requested information is excepted from disclosure under the Public Information Act. *See* Gov't Code § 552.301(a) (stating that governmental body must raise exceptions to disclosure within ten business days of receiving a request for information). Therefore, since you did not request a ruling from our office as required by section 552.301(a) of the Government Code, the requested information is presumed public. *See* Gov't Code § 552.302; *see also* Hancock v. State Bd. of Ins., 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); City of Houston v. Houston Chronicle Publ'g Co., 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). Furthermore, since you did not demonstrate that the requested information is confidential by law or that its release implicates

the interests of an interested third party, we conclude that you must release all of it to the requestor. *See* Open Records Decision No. 150 at 2 (1977).

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).

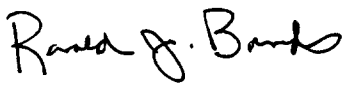
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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 Texas Building and Procurement 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 155439

cc: Mr. Mike D. Ledbetter
5942 Abrams Road #259
Dallas, Texas 75231
(w/o enclosures)