



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

February 6, 2003

Mr. George R. Pulse, Jr.  
Jail Warden  
Parker County Sheriff's Office  
129 Hogle Street  
Weatherford, Texas 76086

OR2003-0792

Dear Mr. Pulse:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#176207.

The Parker County Sheriff's Department (the "department"), received a request for all grievances for the last three months of this [2002] year. The department claims that the requested information is non-specific in nature and excepted from disclosure under section 552.131 of the Government Code. We have considered your argument.

Section 552.222(b) of the Government Code provides that if a governmental body is unable to determine the nature of the records being sought, it may ask the requestor to clarify the request so that the desired records may be identified.<sup>1</sup> You do not indicate that you have asked the requestor to clarify her request. At any rate, section 552.222 permits a governmental body to ask the requestor to clarify or narrow the scope of her request only if the governmental body determines in good faith that it cannot identify the requested information, or that the scope of information requested is unduly broad. Open Records Decision No. 663 (1999). In this instance, it is apparent from a plain reading of the request that the department was provided with sufficient information to identify the requested records. *See generally* Open Records Decision No. 497 (1988) (request is valid so long as it reasonably can be identified as request for public records). The requestor seeks *all* grievances for a three month period.

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<sup>1</sup>Section 552.222(b) also provides that "[i]f a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed[.]"

We must also note that you have not fully complied with section 552.301 of the Government Code. 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 of the information if a voluminous amount was requested. You did not, however, submit to this office a copy or representative samples of the requested information. Given the specificity of the requestor's letter and the department's familiarity with inmate grievances, we do not find that the request requires clarification in order to allow the department to identify and submit to this office information, or representative samples of information, that is responsive to the request.

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). Compelling reasons exist when the information is made confidential by law or affects the interest of a third party. Open Records Decision No. 630 at 3 (1994). Section 552.131 can provide a compelling reason to overcome the presumption of openness. *See* Open Records Decision No. 150 (1976) (confidentiality provisions and exceptions designed to protect the interests of third parties can provide compelling reasons for overcoming presumption of openness). However, because you submitted no responsive information, we have no basis upon which to conclude that such information is excepted from disclosure. Therefore, the requested information must be released to the requestor. *See* Gov't Code §§ 552.301(e)(1)(D), .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) 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Heather Pendleton Ross  
Assistant Attorney General  
Open Records Division

HPR/sdk

Ref: ID# 176207

Enc: Submitted documents

c: Ms. Sharon McAnally  
165 Annetta Road  
Weatherford, Texas 76087  
(w/o enclosures)