



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

July 23, 2003

Lt. Carol Taylor  
Records Manager  
County of Taylor  
450 Pecan Street  
Abilene, Texas 79602-1692

OR2003-5079

Dear Lt. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 184774.

The Taylor County Sheriff's Department (the "department") received a request for evaluation reports and time sheets for several named individuals and other information regarding certain employees that have resigned or been terminated. You state that the current request for information encompasses some of the information that was at issue in the department's previous request for a decision from this office.

In our previous decision concerning this information, Open Records Letter No. 2003-2888 (2003), we explained that the Public Information Act (the "Act") does not require the department to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). We further noted that the Act does not require the department to answer factual questions, perform legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989); *see also AT&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681 (Tex. App.--Eastland, pet. denied). However, the department must make a good faith attempt to relate a request to information it holds. *See* Open Records Decision No. 561 at 8 (1990). Based on your representation, we understand that the four criteria for a "previous determination" established by this office in Open Records Decision

No. 673 (2001) have been met.<sup>1</sup> Therefore, the department may rely on Open Records Ruling No. 2003-2888 in responding to the current request for information.

Further, in regard to the additional requested information in Open Records Ruling No. 2003-2888, the department states that it made the information available to the requestor in accordance with the ruling, and that “[t]he requestor did not come to [the department] at the appointed day and time (05-14-2003, 8:30 a.m.), nor has he contacted [the department] as of this date to reschedule a future day and time.” We find that the department must either release the previously submitted information in conformity with the prior ruling, or certify to this requestor that this information has been previously provided as prescribed by section 552.232 of the Government Code.<sup>2</sup>

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

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<sup>1</sup>The four criteria for this type of “previous determination” are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general’s prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Public Information Act (the “Act”); and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. *See* Open Records Decision No. 673 (2001).

<sup>2</sup>Section 552.232 provides for responding to repetitious or redundant requests. A governmental body which receives a request for information for which it has previously furnished or made copies available to the requestor upon payment of applicable charges under Subchapter F of the Government Code, may respond to the request by certifying to the requestor that it has already made the information available to him. *See* Gov’t Code § 552.232(b) (concerning requirements of certification); *see also* Gov’t Code §§ 552.261-.273 (charges for providing copies of public information).

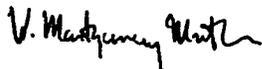
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge 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 Dep't of Pub. 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,



W. Montgomery Meitler  
Assistant Attorney General  
Open Records Division

WMM/lmt

Ref: ID# 184774

c: Mr. Alfredo Solis  
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