



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 31, 2003

Ms. Gail A. Jensen
Assistant City Attorney
City of San Antonio
Riverview Towers, 10th Floor
111 Soledad
San Antonio, Texas 78205

OR2003-9419

Dear Ms. Jensen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 193476.

The City of San Antonio (the "city") received from the same individual two related requests for information. The first request asked for information regarding the status of a complaint the requestor had filed with the city's Equal Employment Opportunity Office ("E.E.O. office"). The second request asked for copies of policies relating to the handling and investigation of complaints filed with the E.E.O. office. You claim that the requested information is excepted from disclosure under the act. We have considered your arguments and reviewed the submitted information.

You contend that the city is not required to respond to the first request in that it does not seek documents, but instead seeks a substantive response. This office has stated on numerous occasions that the act does not require governmental bodies to answer factual questions or perform legal research. *See, e.g.,* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). A governmental body must only make a good faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at 8 (1990). However, you have submitted information which concerns the status of the complaint that the requestor filed with the city's E.E.O. office and which is therefore responsive to the first request. As you do not assert that any of the act's exceptions to disclosure apply to this information, the documents that we have marked must be released to the requestor.

You claim that information responsive to the second request, which asked for the policies relating to the handling and investigation of complaints filed with the E.E.O. office, is excepted from disclosure under section 552.103 of the Government Code. We note,

however, that the documents submitted constitute information that is subject to section 552.022 of the Government Code, which enumerates categories of information that are public information and not excepted from required disclosure under the act unless they are expressly confidential under other law. Section 552.022(a)(8) expressly identifies as public information “a statement of the general course and method by which an agency’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures[.]” The documents you have provided outline the steps the city follows to handle E.E.O. complaints and therefore falls under the category of information contemplated by section 552.022(a)(8). Section 552.103 is a discretionary exception to disclosure that protects the governmental body’s interests and is therefore not other law that makes information expressly confidential for purposes of section 552.022(a). *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103). Therefore, you may not withhold any of the information that is subject to section 552.022 under section 552.103. As you raise no other exception to disclosure with regard to this information, you must release it to the requestor.

In summary, the document we have marked must be released in response to the first request for information. The documents responsive to the second request must be released in their entirety.

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

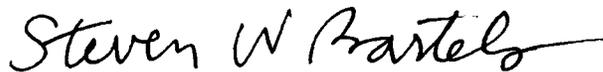
should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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 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,



Steven W. Bartels
Assistant Attorney General
Open Records Division

SWB/lmt

Ref: ID# 193476

Enc. Submitted documents

c: Ms. Maria A. Torres
1019 West Mulberry A-1
San Antonio, Texas 78201
(w/o enclosures)