



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 25, 2005

Ms. Denise Reynolds  
Records Clerk  
Crowley Police Department  
P. O. Drawer 747  
Crowley, Texas 76036

OR2005-07714

Dear Ms. Reynolds:

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# 231265.

The Crowley Police Department (the "department") received a request for two specific affidavits for arrest warrants. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have submitted a search warrant that was not requested. Therefore, this document, which we have marked, is not responsive to the request. This ruling does not address the non-responsive document.

Next, we note that the submitted information includes an arrest warrant and arrest warrant affidavits. Article 15.26 of the Code of Criminal Procedure states that "[t]he arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, is public information, and beginning immediately when the warrant is executed the magistrate's clerk shall make a copy of the warrant and the affidavit available for public inspection in the clerk's office during normal business hours." Therefore, the arrest warrant and any supporting affidavits are made public under article 15.26. Exceptions to disclosure under the Act generally do not apply to information that is made public by other statutes, such as article 15.26 of the Code of Criminal Procedure. *See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989).* Thus, the arrest warrant and affidavits must be released to the

requestor in their entirety. As our ruling on this issue is dispositive, we need not address your remaining arguments.<sup>1</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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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.

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<sup>1</sup>We note that we contacted the department regarding the possible sealing by court order of these records, but to date we have received no indication that any records at issue have been sealed. *See generally* Tex. R. Civ. Proc. 76a (procedural mechanism for sealing court records).

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,

A handwritten signature in black ink, appearing to read 'J. Vela III', written in a cursive style.

José Vela III  
Assistant Attorney General  
Open Records Division

JV/krl

Ref: ID# 231265

Enc. Submitted documents

c: Alex Branch  
Fort Worth Star-Telegram  
P. O. Box 1870  
Fort Worth, Texas 76101  
(w/o enclosures)