



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 16, 2005

Ms. M. Ann Montgomery  
Assistant Ellis County & District Attorney  
Temporary Administration Building  
1201 N. Hwy. 77, Suite 104  
Waxahachie, Texas 75165-2548

OR2005-08457

Dear Ms. Montgomery:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 232314.

The Ellis County Sheriff's Office (the "sheriff") received a request for a specific arrest warrant, application for affidavit, and affidavit in support of the issuance of the warrant. You state that you have released the three requested documents. You seek, instead, to withhold the related offense report from disclosure. The offense report is not, however, responsive to the instant request. Because you do not seek to withhold any of the requested information under Subchapter C of the Public Information Act, we do not believe that a letter ruling is appropriate in this circumstance. *See* Gov't Code § 552.301 (providing duties for a governmental body and the attorney general if a governmental body receives a written request for information and it wishes to withhold). Therefore, we decline to issue a ruling in response to your request.

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).

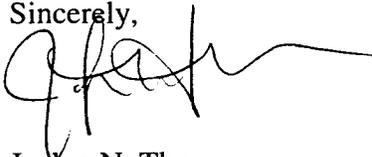
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 Office of the Attorney General 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,



Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 232314

Enc. Submitted documents

c: Anna Maire Garcia  
99 Parker Ridge Road  
Palmer, Texas 75152  
(w/o enclosures)