



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 7, 2006

Ms. Katherine M. Powers
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar, #300A
Dallas, Texas 75215-1801

OR2006-05973

Dear Ms. Powers:

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# 250876.

The Dallas Police Department (the "department") received a request for statements from four named individuals pertaining to a specific administrative inquiry. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the some of the submitted information is not responsive to the present request. The present request seeks statements from four named individuals pertaining to a specific administrative inquiry. The department has submitted three memos and a letter which do not pertain to the administrative inquiry, and in two cases were not written by any of the named individuals. Accordingly, the department need not release this information, which we have marked, in response to this request, and this ruling only addresses the availability of the remaining submitted information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismiss'd).

Next, we note that the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides that "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body" may not be withheld from the

public unless the information is excepted from disclosure under section 552.108 of the Government Code or expressly confidential under other law. Gov't Code § 552.022(a)(1). The responsive information constitutes a portion of a completed internal affairs investigation made by the department, which is made public by section 552.022, unless it is excepted from disclosure under section 552.108 or expressly made confidential under other law. Section 552.103 of the Government Code is a discretionary exception under the Act that does not constitute "other law" for purposes of section 552.022. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, section 552.103 is not other law that makes information confidential for the purposes of section 552.022. Therefore, the department may not withhold this information under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the department must release the responsive information to the requestor.

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,



Anne Prentice
Assistant Attorney General
Open Records Division

AP/sdk

Ref: ID# 250876

Enc. Submitted documents

c: Mr. Robert J. Crider
14026 County Road 550
Farmersville, Texas 75442
(w/o enclosures)