



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 31, 2007

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2007-11401

Dear Ms. Middlebrooks:

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#289068.

The Dallas Police Department (the "department") received a request for a specified affidavit for a home raid at a particular location. We understand you to claim that the submitted information is excepted from disclosure under section 552.107 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.107(2) of the Government Code excepts from required public disclosure information if "a court by order has prohibited disclosure of the information." You state, and the submitted documents reflect, that criminal litigation is pending in state court. You have submitted a sealing order from the Criminal District Court, County of Dallas, State of Texas, forbidding the department from releasing any information regarding this case, and you assert that the submitted information is subject to the court order. Based on your representations

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<sup>1</sup>Although you raise section 552.101 in conjunction with the court order, we note that the appropriate exception to raise is section 552.107(2).

and our review of the information at issue, we conclude that the department must withhold the submitted information pursuant to section 552.107(2) of the Government Code.

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).

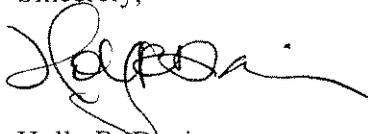
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink, appearing to read "Holly R. Davis", with a long horizontal flourish extending to the right.

Holly R. Davis  
Assistant Attorney General  
Open Records Division

HRD/jh

Ref: ID# 289068

Enc. Submitted documents

c: Mr. Curtis Ippolito  
People Newspapers  
4311 Oak Lawn Avenue, Suite 350  
Dallas, Texas 75219  
(w/o enclosures)