



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 24, 2007

Mr. Steven M. Kean  
Deputy City Attorney  
Legal Department, City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710

OR2007-12399

Dear Mr. Kean:

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 #289837.

The City of Tyler (the "city") received two requests from the same requestor for (1) a complete transcript of a specified arbitration hearing, as well as any documents entered into evidence during the hearing and (2) any emails sent between six named individuals. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.111, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.<sup>1</sup>

Initially, we note that you claim that a submitted e-mail involving FEMA should be withheld from the requestor on the basis that the e-mail contains a "confidentiality statement." Information is not confidential under the Act simply because the party submitting the information anticipates or requests that it be kept confidential. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot, through an agreement or contract, overrule or repeal provisions of the Act. Attorney

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

General Opinion JM-672 (1987); Open Records Decision No. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the predecessor to the Act] cannot be compromised simply by its decision to enter into a contract.”); *see also Indus. Found.*, 540 S.W.2d at 677 (governmental agency may not bring information within exception by promulgation of rule; to imply such authority would be to allow agency to circumvent very purpose of predecessor to Act). Consequently, unless the information you have marked under “FEMA” falls within an exception to disclosure, it must be released, notwithstanding any agreement or expectation otherwise.

We will next address your argument under section 552.103 of the Government Code, as it is potentially the most encompassing exception asserted. Section 552.103 provides in pertinent part as follows:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person’s office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov’t Code § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.–Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.–Houston [1st Dist.] 1984, *writ ref’d n.r.e.*); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under 552.103(a).

To establish that litigation is reasonably anticipated, a governmental body must provide this office “concrete evidence showing that the claim that litigation may ensue is more than mere conjecture.” Open Records Decision No. 452 at 4 (1986). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 at 4 (1986). Concrete evidence to support a claim that litigation is reasonably anticipated may include, for example, the governmental body’s receipt of a letter containing a specific threat to sue the governmental body from an attorney for a potential opposing party. Open Records Decision No. 555 (1990); *see* Open Records Decision No. 518 at 5 (1989) (litigation

must be “realistically contemplated”). On the other hand, this office has determined that if an individual publicly threatens to bring suit against a governmental body, but does not actually take objective steps toward filing suit, litigation is not reasonably anticipated. *See* Open Records Decision No. 331 (1982). Further, the fact that a potential opposing party has hired an attorney who makes a request for information does not establish that litigation is reasonably anticipated. Open Records Decision No. 361 (1983).

In this instance, you inform us and provide documentation showing that the requestor has threatened to sue the city for failing to promote him. You also state that police chief Gary Swindle received a fax from the requestor’s attorney, who threatened to file a civil service appeal or other legal action against the city if the requestor was not promoted. Based on our review of your representations and the information at issue, we find that the city has established through concrete evidence that litigation was reasonably anticipated on the date that it received the requests for information. The submitted documents cover a variety of topics, from an investigation into the improper use of a police computer to e-mails concerning potential police officer candidates. Upon review, none of these documents appear on their face to be related to the employment dispute involving the requestor. Although you state that you “can only presume that the two Public Information requests are related to the existing employment dispute between the Requestor and the City,” you provide no arguments demonstrating how any of the submitted information relates to a potential lawsuit between the city and the requestor. Accordingly, we find that you have failed to meet the burden required under *Texas Legal Foundation* to provide facts and documentation showing the applicability of section 552.103 to the requested information. Therefore, no information may be withheld on this basis. Because this is the only exception you raise for a portion of the submitted e-mails, they must be released to the requestor. We have marked these e-mails accordingly.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 1703.306 of the Occupations Code, which governs information obtained in the course of conducting a polygraph examination and provides that “a person for whom a polygraph examination is conducted . . . may not disclose information acquired from a polygraph examination” except to certain categories of people. Occ. Code § 1703.306(a). You assert that the two submitted transcripts, the exhibits used during the specified arbitration hearing, and the notice of suspension contain confidential polygraph information. The requestor does not fall within any of the enumerated categories of individuals authorized to receive test results; therefore, the city must withhold the polygraph information, which we have marked, under section 552.101 in conjunction with section 1703.306 of the Occupations Code.

You assert that some of the information submitted as evidence during the arbitration hearing, as well as a portion of the submitted e-mails, is confidential under section 143.089 of the Local Government Code. Section 552.101 of the Government Code encompasses section 143.089. You inform us that the city is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel

files: a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). The officer's civil service file must contain certain specified items, including commendations, periodic evaluations by the police officer's supervisor, and documents relating to any misconduct in any instance in which the police department took disciplinary action against the officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a)(1)-(3).

In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer's civil service file maintained under section 143.089(a). *Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.--Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or in possession of the police department because of its investigation into a police officer's misconduct, and the police department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-143.055. Such records are subject to release under chapter 552 of the Government Code. *See id.* § 143.089(f); Open Records Decision No. 562 at 6 (1990).

However, information that reasonably relates to an officer's employment relationship with the police department and that is maintained in the police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.--San Antonio 2000, pet. denied); *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied). You state that the submitted information marked under section 143.089(g) is maintained in the police department's internal files regarding these officers. We agree that the information maintained in the police department's internal files is confidential under section 143.089(g) of the Local Government Code and, therefore, the information you have marked must be withheld from disclosure under section 552.101 of the Government Code.

We note that you have marked information to be withheld under common-law privacy.<sup>2</sup> Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d at 685. To demonstrate the applicability of common-law privacy, both prongs of this test must be

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<sup>2</sup>While you cite "proprietary interest of police officers" for the submitted information, we understand you to raise common-law privacy, as this is the proper exception for the information at issue.

demonstrated. *Id.* at 681-82. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We have marked medical information that is intimate and embarrassing and not of legitimate public interest under common-law privacy; this information must be withheld under section 552.101. However, we have also marked to be released some medical information for which there is a legitimate public interest.

This office has also found that personal financial information not relating to the financial transaction between an individual and a governmental body is generally intimate and embarrassing. *See* Open Records Decision Nos. 600 (1992) (public employee's withholding allowance certificate, designation of beneficiary of employee's retirement benefits, direct deposit authorization, and employee's decisions regarding voluntary benefits programs, among others, protected under common-law privacy), 545 (1990). We find that some of the financial information at issue pertains to personal financial decisions made by specific officers. Furthermore, we find that the information revealing the personal decision is not of legitimate concern to the public in this instance. Therefore, the city must withhold the financial information we have marked under section 552.101 in conjunction with common-law privacy.

You have also marked information relating to police officers' and police officer candidates' conduct, backgrounds, and qualifications under common-law privacy. This information relates solely to the individual's qualifications and ability to execute the duties of a police officer. Since there is a legitimate public interest in the qualifications and job performance of public employees, the city may not withhold candidate background and evaluation information from disclosure based on a right of privacy. *See* Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in having access to information concerning performances of governmental employees), 444 (1986) (employee information about qualifications, disciplinary action and background not protected by privacy), 423 at 2 (1984) (scope of public employee privacy is narrow).

You claim that the identity of a complainant contained within one of the submitted e-mails may be withheld pursuant to the common-law informer's privilege. Section 552.101 also encompasses the common-law informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, *Evidence*, § 2374, at 767

(McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5. The privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

Based on your markings, we presume you to assert that the caller's name, home address, and home phone number should be withheld under the informer's privilege. However, you have not provided this office with any argument identifying the alleged violation to which this call pertains or explaining whether the alleged violation carries civil or criminal penalties. Accordingly, you have not demonstrated that the informer's privilege is applicable to the requested caller's name. Thus, we conclude that the city may not withhold the information you have marked under section 552.101 of the Government Code in conjunction with the informer's privilege.

You claim that a portion of the submitted e-mails should be withheld under section 552.107 of the Government Code. Section 552.107(1) protects information coming within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "for the purpose of facilitating the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Texas Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a confidential communication, *id.*, meaning it was "not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication." *Id.* 503(a)(5).

Whether a communication meets this definition depends on the intent of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, no writ). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless

otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You state that e-mails to or from an identified city attorney are communications made in furtherance of the rendition of professional legal services to the city. You state further that *these e-mails were not intended for third parties, and that the confidentiality of these communications has been maintained*. Accordingly, the city may withhold the e-mails to or from the named city attorney that we have marked under section 552.107. However, you have marked e-mails which do not involve the named attorney. Because you have not identified any of the other persons involved, none of these e-mails may be withheld under section 552.107. As our ruling on these e-mails is dispositive, we need not address your attorney work product argument under section 552.111 regarding these documents.

Next, you assert that a portion of the submitted e-mails are subject to section 552.108 of the Government Code. Section 552.108 provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). One way to accomplish this is to explain that the requested information pertains to a pending investigation or prosecution. However, you have not provided this office with any arguments regarding the status of any of the submitted investigations and cases. Furthermore, you do not otherwise explain how release of the submitted information would interfere with a particular criminal investigation or prosecution. Thus, we find that you have not established that section 552.108(a)(1) of the Government Code applies to the submitted information.

Next, this office has stated that under the statutory predecessor to section 552.108(b)(1), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531(1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 252 (1980) (predecessor to section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted).

To claim this exception, a governmental body must explain how and why release of the requested information would interfere with law enforcement and crime prevention. Gov't Code §§ 552.108(b)(1), .301; Open Records Decision No. 562 at 10 (1990). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984). We note that you have marked a police officer's cellular telephone number under section 552.108. In Open Records Decision No. 506 (1988), we determined that the statutory predecessor to section 552.108(b) excepted from disclosure "the cellular mobile phone numbers assigned to [Harris C]ounty officials and employees with specific law enforcement responsibilities." Open Records Decision No. 506 at 2. We noted that the purpose of the cell phones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.* Therefore, based on our review of the submitted information, the city may withhold the phone number you marked under section 552.108(b)(1) of the Government Code. However, you have not provided this office with any arguments explaining how the release of the remaining information marked under section 552.108 would interfere with law enforcement or crime prevention. Accordingly, the city may only withhold the police officer's cellular telephone number, which we have marked, under section 552.108(b)(1). No other information may be withheld under this exception.

You claim that a portion of the submitted e-mails are excepted under section 552.111 of the Government Code, which excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." *See* Gov't Code § 552.111. Section 552.111 encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). You assert that the e-mails you have marked are excepted from disclosure under the deliberative process privilege

encompassed by section 552.111. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d391, 394 (Tex. App.--San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615 (1993), this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.-- Austin 1992, no writ). We determined that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* Open Records Decision No. 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. *See* Open Records Decision No. 631 at 3 (1995). Additionally, section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.-Austin 2001, no pet.); ORD 615 at 4-5.

Upon review, we find that only a portion of the information you have marked under section 552.111 constitutes actual advice, recommendations, and opinions of city policy. We have marked this information to be withheld under section 552.111. However, you provide no arguments demonstrating how the remaining information constitutes advice, recommendations, and opinions of city policymakers reflecting the policymaking process. Therefore, the city may only withhold the information we have marked under section 552.111.

You assert that information within the submitted e-mails is subject to section 552.117 of the Government Code. Section 552.117(a)(2) excepts from public disclosure the current and former home addresses, home telephone numbers, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code.<sup>3</sup> The city must withhold the information we have marked under section 552.117(a)(2). We note section 552.117(a)(2) does not protect an applicant's personal information.

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<sup>3</sup>"Peace officer" is defined by Article 2.12 of the Texas Code of Criminal Procedure.

You have marked Texas-issued license plate numbers to be withheld under section 552.130. Section 552.130 of the Government Code excepts from disclosure information that “relates to... a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. Therefore, the city must withhold the Texas license plate numbers you have marked, as well as the license plate numbers we have marked, under section 552.130.

We note that the submitted e-mails contain public e-mail addresses. Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).<sup>4</sup> Gov’t Code § 552.137(a)-(c). We note that section 552.137 does not apply to a government employee’s work e-mail address because such an address is not that of the employee as a “member of the public” but is instead the address of the individual as a government employee. The e-mail addresses we have marked are not of a type specifically excluded by section 552.137(c) of the Government Code. Therefore, the city must withhold the marked e-mail address in accordance with section 552.137 unless the city receives consent for their release.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code, section 143.089(g) of the Local Government Code, and common-law privacy. The city may withhold the information we have marked under sections 552.107, 552.108(b)(1), and 552.111 of the Government Code. The city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. The city must withhold the information you have marked, as well as the information we have marked, under section 552.130 of the Government Code. Finally, the city must withhold the information we have marked under section 552.137 of the Government Code. The remaining information must be released 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

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<sup>4</sup>The Office of the Attorney General will raise a mandatory exception like section 552.137 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 289837

Enc. Submitted documents

c: Mr. Darrell Cook  
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