



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2008

Ms. Dianne Eagleton
Manager
Records Division
North Richland Hills Police Department
P.O. Box 820609
North Richland Hills, Texas 76108-0609

OR2008-10456

Dear Ms. Eagleton:

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# 317691.

The North Richland Hills Police Department (the "department") received a request for arrest and conviction records for a named individual during a specified time period. You state that you did not find any responsive information upon a search of the department's current database, which you state was established in 1999.¹ You further state that you would "need more information/details to search in [your] old system" for the remainder of the time period specified in the request and thus, you refuse to fully respond to the instant request. However, you indicate that any such responsive information is excepted from disclosure under section 552.101 of the Government Code. We note that the administrative inconvenience of providing public records to a requestor in response to an open records request does not constitute sufficient grounds for denying such a request. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). We also note that a governmental body must make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990). Further, a

¹We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

governmental body may seek clarification from a requestor. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used). We therefore find that the department may not refuse to comply with any portion of this request on the basis that doing so would be burdensome. Accordingly, to the extent information responsive to the remaining portion of the request existed on the date the request was received, the department must release this information at this time. *See id* §§ 552.301(a), .302. If you believe the information is confidential and may not be lawfully released, you must challenge this ruling in court as outlined below.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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,

Handwritten signature of Olivia A. Maceo in cursive script.

Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/jb

Ref: ID# 317691

Enc. Submitted documents

c: Ms. Jennifer Strickland
3516 West Brookview Drive
Waco, Texas 76710
(w/o enclosures)