



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 27, 2008

Ms. Melanie Barton
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2008-11818

Dear Ms. Barton:

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# 320349.

Dallas County (the "county") received a request for the parking records for District Attorney Craig Watkins from January 1, 2007 to the present. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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. Under this section, this office has determined that information may be withheld from public disclosure in special circumstances. In Open Records Decision No. 169 (1977), we considered the personal safety concerns of public employees and recognized that there may be specific instances where "special circumstances" exist to except from public disclosure some of the employees' addresses. *See* Open Records Decision No. 123 (1976). In that decision, the employees demonstrated that their lives would be placed in danger if their addresses were released to the public. ORD 169 at 7. This office further noted that the initial determination of credible threats and safety concerns should be made by the governmental body to which a request for disclosure is directed, and this office will determine whether a governmental body has demonstrated the existence of special

¹We 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.

circumstances on a case-by-case basis. *Id.* We noted, however, that “special circumstances” do not include “a generalized and speculative fear of harassment or retribution.” *Id.* at 6.

You explain that the instant request seeks the parking garage entrance and exit times for District Attorney Craig Watkins, the criminal district attorney for the county. You assert that some of the individuals prosecuted by District Attorney Craig Watkins, and other individuals, “have felt inclined to seek retribution against the persons responsible for punishing or incarcerating them.” Additionally, you explain that the county maintains a secure parking area to help ensure the safety of judges and elected officials, such as District Attorney Craig Watkins, as well as utilizing security checkpoints with metal detectors and x-ray machines, through which individuals entering the criminal courthouse must pass. You contend that release of the records at issue “would create a compromise of the security measures used to protect officials like [District Attorney Craig Watkins] and would likely cause him to face an imminent threat of physical danger if someone knew their comings and goings from the parking garage and/or courthouse.” Further, you assert that “any individual bent on doing harm could simply strike before [District Attorney Craig Watkins] entered, or after he exited, the garage.” Based on these representations and our review of the submitted information, we conclude that the county has demonstrated the existence of special circumstances regarding District Attorney Craig Watkins. Accordingly, the county must withhold the submitted information under section 552.101 of the Government Code. As our ruling on this issue is dispositive, we need not address your remaining argument.

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,

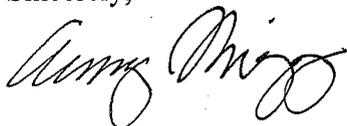
toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

Ref: ID# 320349

Enc. Submitted documents

c: Ms. Jennifer Emily
The Dallas Morning News
c/o Ms. Melanie Barton
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(w/o enclosures)