



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2011

Ms. Jessica C. Eales  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2011-01441

Dear Ms. Eales:

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# 407147 (GC No. 17880).

The City of Houston (the "city") received a request for any written reprimand included in a named police officer's personnel file from August 1, 2010, through the date of the request. You claim the submitted 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

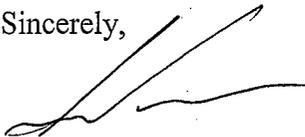
Initially, we address the requestor's assertion the city failed to comply with the requirements of section 552.301(b) of the Government Code. Pursuant to section 552.301(b), a governmental body that receives a request for information that it wishes to withhold must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See id.* § 552.301(b). The city states, and the requestor acknowledges, the city received the request for information on November 3, 2010. This office does not count any holidays, including skeleton crew days observed by a governmental body, as business days for the purpose of calculating a governmental body's deadline under the Act. The city informs this office it observed a holiday on November 11, 2010. Thus, the city's ten-business-day deadline was November 18, 2010. The city's request for a ruling from this office was faxed to this office on November 18, 2010. Consequently, we conclude the city did not fail to comply with the Act in requesting a ruling from this office. Thus, we will address the city's argument against disclosure.

We note the submitted information is part of a completed investigation, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides a completed investigation is public information unless it is confidential by other law or excepted from disclosure under section 552.108. *Id.* § 552.022(a)(1). Section 552.103 is a discretionary exception and is not “other law” that makes information confidential; therefore, the department may not withhold the submitted information under this exception. *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 473 (1987) (section 552.103 may be waived). Consequently, the city may not withhold the submitted information under section 552.103. As you raise no other exceptions for the submitted information, they must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 407147

Enc: Submitted documents

c: Requestor  
(w/o enclosures)