



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2012

John J. Janssen, J.D., Ph.D.
General Counsel
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2012-02036

Dear Dr. Janssen:

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# 444839.

The Corpus Christi Independent School District (the "district") received a request for a specified video recording, report, and witness statements. You state the district has provided some information to the requestor. You claim (1) the requested video recording is excepted from disclosure under section 552.103 of the Government Code, and (2) the remaining requested information is excepted from disclosure under sections 552.103, 552.107, and 552.111 of the Government Code and privileged under Texas Disciplinary Rule of Professional Conduct 1.05, Texas Rule of Evidence 503, and Texas Rule of Civil Procedure 192.5.¹ We have considered your arguments and reviewed the submitted information.

Initially, we note you have not submitted for our review any information responsive to the request for a specified video recording. Although you state the district submitted a representative sample of information "relating to the [responsive] attorney-client report[.]" no portion of the submitted representative sample pertains to the requested video. Thus, we

¹Although you raise section 552.101 of the Government Code in conjunction with Texas Disciplinary Rule of Professional Conduct 1.05, Texas Rule of Evidence 503, and Texas Rule of Civil Procedure 192.5, this office has concluded that section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). You also raise section 552.102 of the Government Code as an exception to disclosure, but have provided no arguments regarding the applicability of this section. We therefore assume you have withdrawn it. *See* Gov't Code §§ 552.301(b), (e), .302. Furthermore, although you raise section 552.022 of the Government Code as an exception to disclosure, that provision is not an exception to disclosure. Rather, section 552.022 enumerates categories of information that are not excepted from disclosure unless they are confidential under the Act or "other law." *See id.* § 552.022.

find the submitted information is not representative of the information sought in this part of the request. Please be advised this open records letter applies to only the types of information you have submitted for our review. Therefore, this letter ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See id.* § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). To the extent information responsive to the request for a specified video recording existed when the request was received, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

We next note the submitted investigation report is not responsive because it was created after the district received the present request for information. The Act does not require a governmental body to release information that did not exist when it received a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983). This ruling does not address the public availability of any information that is not responsive to the request, and the district need not release such information. As we make this determination, we do not address your arguments.

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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 444839

Enc. Submitted documents

c: Requestor
(w/o enclosures)