



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2012

Mr. Whitt L. Wyatt
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza, 500 North Akard Street
Dallas, Texas 75201

OR2012-18734

Dear Mr. Wyatt:

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# 472072 (NJDHS Reference Nos. 57404, 57407).

The Desoto Police Department (the "department"), which you represent, received two requests from separate requestors for specified personnel records of a named officer. You claim the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim. We have also considered comments submitted by one of the requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

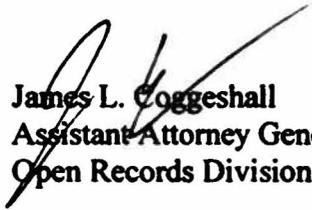
"Public information" is defined as "information that is collected, assembled, or maintained . . . by a governmental body; or . . . for a governmental body and the governmental body owns the information or has a right of access to it." *Id.* § 552.002(a). The Act applies only to information that a governmental body possesses or has access to at the time it is requested. The Act does not ordinarily require a governmental body to obtain information not in its possession and to which it has no right of access. Open Records Decision Nos. 663 at 7 (1999), 558 (1990), 499 (1988). You state the requested information "is currently being held by a district court judge[.]" You also assert the department "was unable to timely obtain a copy of the same[.]" but, "as soon as copies of these records are available," the department will forward them to this office for our review and consideration. Based on these representations, we conclude the department is not

required to comply with these requests at this time.¹ However, if the department obtains the information at issue from the court and subsequently receives a request for that information, the department must again seek a ruling from this office before withholding any responsive information from the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 472072

c: Requestor
(w/o enclosures)

¹Because our ruling on this issue is dispositive, we do not address the exceptions you claim under the Act.