



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 3, 1998

Ms. Regina Atwell  
Attorney  
The City of Cleburne  
P.O. Box 677  
Cleburne, Texas 76033-0677

OR98-2121

Dear Ms. Atwell:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117784.

The City of Cleburne (the "city") received two requests for information concerning documents relating to two former city police officers. The city asks that the requests be consolidated as one. The information requested includes:

1. A copy of the Cleburne Police Officers Rules in force at the time of this incident and resulting disciplinary action;
2. A copy of all statements, oral or written given by police Lieutenant Antonio Vidaurri to agents of the City of Cleburne;
3. A copy of all statements, oral or written, given by anyone concerning the facts of this case or concerning the investigation of this case;
4. A copy of the internal affairs file in its entirety complete with exhibits, statements and any other attachments to said reports;
5. A copy of any reports and recommendations of Police Lieutenant Antonio Vidaurri's "Chain of Command" regarding this incident;
6. A copy of all reprimands and/or letters of suspension issued to Police Lieutenant Antonio Vidaurri during his service as a Cleburne Police Officer;

7. A copy of the letter of Indefinite Suspension provided to the Civil Service Commission. Please provide documentation establishing when the Civil Service Commission received such notice;
8. A copy of any letters or reprimand/suspension or documentation of any discipline administered to Police Lieutenant Antonio Vidaurri;
9. A copy of any exhibits or other documents that you intend to introduce at the arbitration hearing;
10. A witness list;
11. A copy of all discipline letters related to actions taken against other officers who were alleged to have been untruthful;
12. A copy of all disciplinary letters in which a Cleburne Police Officer received an indefinite suspension. If the discipline was later altered, please provide that information as well;
13. Tapes and transcripts of all internal affairs interviews with Police Lieutenant Antonio Vidaurri and anyone else interviewed as part of the investigation;
14. All documentation generated by the City of Cleburne Civil Service Commission (or otherwise), establishing that Cleburne Police Department General Order 100.011 was duly adopted, published, and posted as a City of Cleburne "civil service rule" pursuant to 143.008(c),(d) & (e).

We observe that a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 (1990). Even when a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that he may narrow his request. Open Records Decision No. 563 (1990). You claim that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108 and 552.111 of the Government Code.

Pursuant to section 552.303(c) of the Government Code you were notified that you failed to comply with the requirements of Government Code section 552.301(b). You were asked to submit your written comments explaining the reasons why the stated exceptions applied to the information requested as well as a copy of the information requested, or a representative sample of the information if the documents were numerous and repetitive.

In the instant case, as distinguished from Open Records Decision No. 333 (1982), we do not have the interplay of communication between the requestor and the city. In fact, the correspondence from the requestor's legal assistant, dated as received by the city on June 12, 1998, serves as an acknowledgment of the city's inquiry, but does not respond to the city's questions. Additionally, a review of the documents requested reveals that some of the information requested does not appear to rise to the level of legitimate confusion as distinguished from the facts in Open Records Decision No. 333 (1982).

Consequently, you were sent the notification on July 3, 1998 and asked to provide the information within seven days from the date of receiving the notification. Gov't Code § 552.303(d). You failed to provide the information requested. The failure to comply with these requirements results in the legal presumption that any information subject to the open records request and is presumed to be public information. *Id.* § 552.303(e). Thus, unless the information is made confidential by law, the city must release the information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 117784

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