OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

December 20, 1999

Ms. Margaret A. Roll
Assistant General Counsel
Department of Human Services
P.O. Box 149030
Austin, Texas 78714-9030

OR99-3670

Dear Ms. Roll:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130541.

The Texas Department of Human Services (the "department") received a request for information regarding the diversion of clients from Temporary Assistance for Needy Families and the "Commissioner's Cup" award presented to the regional office that diverts the greatest number of clients in a quarter. You state that the department intends to provide most of the requested information to the requestor. However, you claim that the remaining information is not subject to chapter 552 of the Government Code. Alternatively, you contend that the information is excepted from required public disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of documents at issue.[1]

In Open Records Decision No. 581 (1990), this office determined that computer source codes and documentation are not the kinds of information made public by section 552.021, where such information functions only as a tool for the maintenance, manipulation, or protection of public property. Open Records Decision No. 581 at 6 (1990). Here, the

[1]We 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.

information consists of directions to the program developer for enhancing the security of the system. Accordingly, we agree that the submitted information is not subject to disclosure under chapter 552 of the Government Code. Therefore, the department is not required to release the submitted information.[2]

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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal 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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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).

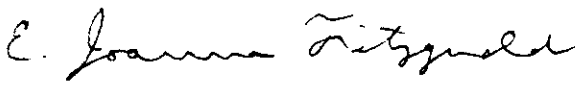
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

---

[2]Because Open Records Decision No. 581 (1990) is dispositive of this matter, we do not address your other arguments.

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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 130541

Encl: Submitted documents

cc: Ms. Renee Trevino
Texas Rural Legal Aid, Inc.
308 East Harrison
Harlingen, Texas 78550
(w/o enclosures)