



May 1, 2001

Ms. Tracy A. Pounders
Assistant City Attorney
City of Dallas
1500 Marilla, Room 7BN
Dallas, Texas 75201

OR2001-1769

Dear Ms. Pounders:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 146705.

The City of Dallas (the "city") received a request for "a copy of the Original Answer filed by the City of Dallas for each and every law suit filed against a Dallas Police Officer and/or the City of Dallas alleging in part or in whole, police misconduct, use of excessive force, official oppression, and/or negligence in any form" during a specified time period. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.107(1) of the Government Code. You did not submit either the requested information or a representative sample of that information. We also received written comments from the requestor. *See* Gov't Code § 552.304 (providing that any person may submit comments stating why the information at issue should or should not be released).

Section 552.301 prescribes procedures that a governmental body must follow in asking this office to decide whether requested information may be withheld from public disclosure. Section 552.301(e) provides in relevant part that "[a] governmental body that requests an attorney general decision . . . must . . . not later than the 15th business day after the date of receiving the written request [for information] . . . submit to the attorney general . . . a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested[.]" Gov't Code § 552.301(e)(1)(D). Section 552.302 provides that "[i]f a governmental body does not request an attorney general decision as provided by Section 552.301 . . . the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information."

You inform this office that the city received the request for the information at issue on February 13, 2001. The city then had 15 business days in which to comply with section 552.301(e)(1)(D). The city failed to do so. Therefore, the requested information is presumed to be public under section 552.302 and must be released, unless there is a compelling reason to withhold any of the information from disclosure. Generally, the operation of section 552.302 can be overcome by a demonstration that the information at issue is confidential under other law or that third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 150 at 2 (1977). Sections 552.103 and 552.107(1), which you raise, do not constitute compelling reasons under section 552.302. *See* Open Records Decision Nos. 630 at 4 (1994) (governmental body may waive section 552.107(1)), 542 at 4 (1990) (governmental body may waive statutory predecessor to section 552.103). Therefore, the city must release the requested information.

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).

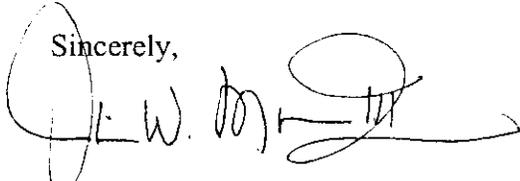
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large, looped initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/tr

Ref: ID# 146705

cc: Mr. David D. Davis
Attorney & Counsellor at Law
P.O. Box 540745
Grand Prairie, Texas 75054-0745