



November 28, 2001

Ms. Susan Camp-Lee  
Attorney for the City of Elgin  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2001-5523

Dear Ms. Lee:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155355.

The City of Elgin Police Department (the “department”), which you represent, received a request for the following information:

- (1) “Officer Gravil’s experience: number of years as a traffic/patrol officer.”
- (2) “What type of radar did he use?”
- (3) “When did it get calibrated?”
- (4) “How long have [sic] he been using it?”
- (5) “Where exactly was he when he used his radar equipment to get my speed: Where was he parking or driving, what side of street [sic] was he on?”
- (6) “How long (time and distance) did it take for him to catch up with me?”
- (7) “How many speeding violations does [sic] your department issue since the time officer Gravil on traffic/patrol duty?”
- (8) “What is the percentage of ticket was your department issue to the minority [sic]?”
- (9) “How many speeding violations does [sic] officer Gravil issue so far and how many tickets did he issue to the minority?”

You contend that the department is not required to respond to any of these questions because the questions either consist of factual questions, require the creation of new information, or require the compilation of information. You further contend that questions seven through nine are "vague and unclear." We have considered your arguments.

First, we address your contention that questions seven through nine are vague and unclear. In responding to a request for information, the governmental body must make a good-faith effort to relate the request to the information that it holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). If what information is requested is unclear, the governmental body may ask the requestor to clarify the request. *See* Gov't Code § 552.222(b).

Next, you contend that categories one through six of the request consist of factual questions to which the department need not respond. Indeed, the Public Information Act (the "Act") does not generally require that a governmental body provide answers to factual questions. Open Records Decision No. 555 at 1 -2 (1990). You also appear to contend that the department does not maintain information responsive to any of the categories of information, and the department would have to either compile information or create new information in response to the request. The Act does not require a governmental body to make available information which does not exist nor does it require a governmental body to compile information or prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 555 (1990), 362 (1983). Nevertheless, as we previously indicated, the department must make a good-faith effort to relate the request to information that it holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). If the department holds information from which the requested information can be obtained, it must provide that information to the requestor unless it is otherwise excepted from disclosure. As you have submitted no responsive information to this office for our review, we have no basis for concluding that any of the requested information, if it does exist, is excepted from disclosure pursuant to the exceptions you raise. *See* Gov't Code § 552.301(e)(1)(D). Therefore, to the extent the department holds information from which the requested information can be obtained, it must release this information to the requestor. *See* Gov't Code § 552.302.

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); *Tex. Dep't of Pub. 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 Texas Building and Procurement 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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/sdk

Ref: ID# 155355

c: Ms. Anh Tran  
1946 NE Loop 410, Apt. #304  
San Antonio, Texas 78217