



August 7, 2002

Ms. Ashley D. Fourt  
Assistant District Attorney  
Tarrant County  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR2002-4339

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166953.

The Tarrant County Sheriff's Department (the "department") received two requests for copies of information contained in the personnel and Internal Affairs division files of a former department lieutenant. You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

We note that the information at issue is subject to section 552.107(2) of the Government Code. Section 552.107(2) excepts from disclosure information if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You claim that the information is not available to the public based on a protective order that you submitted to us for review that was issued by a federal court judge and entered in *Sandra Nevling v. Tarrant County, Texas Tarrant County Sheriff's Office, Tom Vandergriff and David Williams*, Civil Action No. 4:93-CV-679-E (N. D. Tex. Oct. 12, 1994). Upon careful review of this order, we note that the judge in this action deemed the lieutenant's personnel file(s) and files maintained by the Internal Affairs Division which pertain in any way to the lieutenant confidential. We also note that the judge stipulated that the order "shall continue in force until amended or superseded by express order of this Court and shall survive any final judgment herein, unless otherwise provided." We have no evidence to conclude that this protective order was amended or superceded by order of the court subsequent to the entry of the order. Therefore, we agree that the information at issue is confidential under that

order and is excepted from disclosure pursuant to section 552.107(2) of the Government Code. Because we base our ruling on section 552.107(2), we need not address your claim regarding section 552.101 of the Government Code.

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).

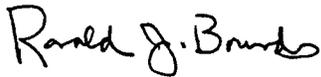
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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 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. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/seg

Ref: ID# 166953

Enc. Submitted documents

cc: Mr. Ronnie Blasingame  
ER Investigative Network  
6777 Camp Bowie Road, Suite 125  
Fort Worth, Texas 76116  
(w/o enclosures)