ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2005

Mr. Charles R. Anderson
Deputy City Attorney
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2005-07091

Dear Mr. Anderson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 229706.

The City of Irving (the "city") received a request for whether the city has warrants issued for a named individual. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted information is not responsive to the instant request. Information that is not responsive to this request, which we have marked, need not be released. Moreover, we do not address such information in this ruling.

The responsive document you have submitted is an arrest warrant. Article 15.26 of the Code of Criminal Procedure provides:

> The arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, *is public information*, and beginning immediately when the warrant is executed the magistrate's clerk shall make a copy of the warrant and the affidavit available for public inspection in the clerk's office during normal business hours. A person may request the clerk to provide copies of the warrant and affidavit on payment of the cost of providing the copies.

Code Crim. Proc. art. 15.26 (emphasis added). The submitted arrest warrant is made public by this provision. You argue that because the warrant has not been executed in this instance, it is not public under article 15.26. However, whether an arrest warrant has been executed does not qualify the requirement that the warrant be made public; instead, the execution of an arrest warrant triggers administrative requirements for a magistrate's clerk. *Id.* A plain reading of article 15.26 indicates an arrest warrant is public information and must be released. *Id.*; *see Ex Parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997) (stating that if language of statute is not ambiguous, court must give effect to plain meaning of its words unless doing so would lead to absurd results).

Nevertheless, you further argue that because the arrest of the named defendant in the warrant is still pending the warrant is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108. However, the exceptions found in the Act do not, as a general rule, apply to information that is made public by other statutes. *See* Open Records Decision No. 525 (1989) (addressing statutory predecessor to article 15.26). The city must release the submitted arrest warrant.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll

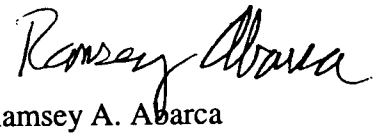
free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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. 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/jev

Ref: ID# 229706

Enc. Submitted documents

c: Ms. Trina A. Nudson
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(w/o enclosures)