



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 22, 2005

Ms. Karen Saldana  
Records Clerk  
Saginaw Police Department  
404 South Saginaw Boulevard  
Saginaw, Texas 76179

OR2005-10552

Dear Ms. Saldana:

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# 236699.

The Saginaw Police Department (the "department") received a request for an arrest warrant/arrest warrant affidavit for a specific person. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the department has failed to submit the requested arrest warrant and supporting affidavit for our review. Further, the department has not indicated that such information does not exist or that it wishes to withhold any such information from disclosure. Therefore, to the extent the arrest warrant and supporting affidavit existed on the date the department received this request, we assume you have released it to the requestor. If you have not released any such information, you must release it to the requestor at this time. See Gov't Code §§552.301(a), .302; see also Crim. Proc. art. 15.26. We note, however, that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

As the requestor has specifically requested an arrest warrant and supporting affidavit, the submitted offense report is therefore nonresponsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the present request, and the department need not release that information in response to this request. *See Bustamante*, 562 S.W.2d at 266; Open Records decision No.452 at 3 (1986).

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); *Texas 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 Office of the Attorney General 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 "Brian J. Rogers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian J. Rogers  
Assistant Attorney General  
Open Records Division

BJR/krl

Ref: ID# 236699

Enc. Submitted documents

c: Mr. Fred Pendergraf  
One Summit Ave. #410  
Fort Worth, Texas 76102  
(w/o enclosures)