



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2006

Mr. Nathan C. Barrow
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-07666

Dear Mr. Barrow:

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# 254399.

The City of Fort Worth (the "city") received a request for "the downloaded data and any interpretation done of the data" from a black box located in a specific police vehicle. You assert that the city is not required to purchase software or hardware to accommodate this request. In the alternative, you claim that any information stored on the black box is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments.

You claim that the requested information is subject to a previous ruling from this office. In Open Records Letter No. 2006-03787 (2006), the city received a request for a specified black box. In that ruling, this office determined that the requested item was not subject to the Act. We note that in the present request the requestor seeks the data stored in the black box and not the black box itself. Accordingly, as the information at issue in the present request was not at issue in Open Records Letter No. 2006-03787, we conclude that the city may not rely on that ruling as a previous determination.¹ Therefore, we will address your remaining arguments.

¹See Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling).

You assert that the city is unable to comply with the present request because the city does not have the ability to process the black box. You inform this office that in order to “process the information on the [b]lack [b]ox, one must purchase a computer Crash Data Retrieval System and the software to run it[.]” You further state that the city has not purchased such a system and has no plans to do so. Accordingly, we conclude that the city does not have to produce the requested information.² Cf. Gov’t Code § 552.228 (governmental body shall provide information in requested medium if agency has technological ability to do so; governmental body is not required to purchase any software or hardware to accommodate the request).

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

²As our ruling is dispositive, we need not address your remaining argument.

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 "Tamara L. Harswick". The signature is written in a cursive style with a large initial "T" and a long, sweeping underline.

Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/kl

Ref: ID# 254399

c: Mr. Eduardo Canas
Canas & Flores
600 North Main Street
Fort Worth, Texas 76106