



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2006

Ms. Sue Ann Gregory
Assistant Criminal District Attorney
Bexar County
300 Dolorosa, Suite 4049
San Antonio, Texas 78205-3030

OR2006-15007

Dear Ms. Gregory:

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# 267466.

The Bexar County Sheriff's Office (the "sheriff") received two requests from the same requestor for information pertaining to an internal investigation regarding the use of force by a specified officer against an inmate. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

You inform us that the requested information is subject to a previous ruling issued by this office. On December 12, 2005, this office issued Open Records Letter No. 2005-11117 (2005), in which we ruled that the requested information was excepted from public disclosure under section 552.108(a)(1) of the Government Code. You state that the pertinent facts and circumstances have not changed since the issuance of that prior ruling. Thus, we determine that the sheriff may continue to rely on our ruling in Open Records Letter No. 2005-11117 as a previous determination and withhold the requested information under section 552.108 in accordance with that decision. *See 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). As our ruling on this issue is dispositive, we need not address your arguments against disclosure.

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).

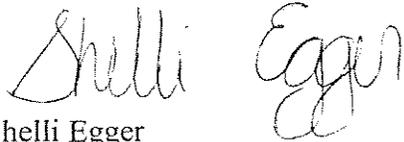
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 cursive script that reads "Shelli Egger". The signature is written in black ink and is positioned above the typed name.

Shelli Egger
Assistant Attorney General
Open Records Division

SE/sdk

Ref: ID# 267468

Enc. Submitted documents

c: Ms. Marilyn Bradley
DSABC General Counsel
909 Broadway, Suite 214
San Antonio, Texas 78212
(w/o enclosures)