



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2007

Ms. Jennifer McClure
Assistant District Attorney
Denton County
P.O. Box 2850
Denton, Texas 76202

OR2007-04028

Dear Ms. McClure:

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# 280405.

Denton County (the "county") received a request for "any document or record reflecting the use of either [of two named individuals] of the county access/identification badge provided to county employees." You claim that the requested 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101.¹ Under this section, this office has determined that information may be withheld from public disclosure in certain special circumstances. In Open Records Decision No. 169 (1977), we considered the personal safety concerns of public employees and recognized that there may be specific instances where "special circumstances" exist to except from public disclosure some of the employees' addresses. See Open Records Decision No. 123 (1976). In that decision, the employees demonstrated that their lives would be

¹This office will raise section 552.101 on behalf of a governmental body because the Act prescribes criminal penalties for the release of confidential information. See Gov't Code §§ 552.007, 552.352; Open Records Decision No. 325 at 2 (1982).

placed in danger if their addresses were released to the public. ORD 169 at 7. This office further noted that the initial determination of credible threats and safety concerns should be made by the governmental body to which a request for disclosure is directed, and this office will determine whether a governmental body has demonstrated the existence of special circumstances on a case-by-case basis. *Id.* We noted, however, that “special circumstances” do not include “a generalized and speculative fear of harassment or retribution.” *Id.* at 6.

You assert that release of the submitted information could endanger the named individuals. You explain that the submitted information reveals when the named individuals enter and exit the secure parking area maintained by the county for judges and elected officials. The submitted information also reveals when the named individuals access county court buildings. You note that one of the individuals is a judge who “handles family law cases” and that persons involved in such cases have “felt inclined to seek retribution against judges who have ruled unfavorably against them in the courthouse.” You argue that the submitted information provides the named individuals’ routine, and its release would endanger the lives of the named individuals. Based on your representations and our review of the submitted information, we conclude that the county has demonstrated the existence of special circumstances regarding the named individuals. Accordingly, the county must withhold the responsive information under section 552.101 of the Government Code. As our ruling on this issue is dispositive, we need not address your remaining arguments.

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,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/eeg

Ref: ID# 280405

Enc. Submitted documents

c: Mr. Chris Raesz, P.C.
306 North Carroll Boulevard
Denton, Texas 76201
(w/o enclosures)