



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 17, 2007

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2007-09010A

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 283993.

The Plano Police Department (the "department") received multiple requests from the same individual for information relating to the arrest of his client. You stated that the department released some of the responsive information. You sought to withhold the incident report and the corresponding audio and video recordings under sections 552.103 and 552.108 of the Government Code. In response to your request for a ruling, this office issued Open Records Letter No. 2007-08941 (2007). In that ruling, we concluded that the department may withhold the incident report and corresponding audio and video recordings under section 552.108 of the Government Code. Unfortunately, a piece of correspondence that should have been attached to the Open Records Letter No. 2007-08941 file was inadvertently set up as a new file. Since there were no arguments or documentation for this new file, we ruled that, in accordance with section 552.302 of the Government Code, the responsive information must be released. *See* Open Records Letter No. 2007-09010 (2007).

We have re-examined the two rulings. Since this office previously ruled on the responsive information, we find that our conclusion in Open Records Letter No. 2007-09010 was erroneous. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application,

operation, and interpretation of this chapter). Thus, in accordance with Open Records Letter No. 2007-08941, the department may withhold the responsive incident report and corresponding audio and video recordings under section 552.108 of the Government Code. See Open Records Decision No. 673 (2001) (establishing criteria for previous determinations); see also Gov't Code 552.301(a) (stating that governmental body may withhold information from disclosure without seeking decision from attorney general if attorney general has previously ruled on exact information).

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).

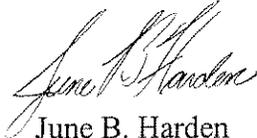
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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, appearing to read "June B. Harden".

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/sdk

Ref: ID# 283993

Enc: Submitted documents

c: Mr. William Randell Johnson  
2809 Regal Road, Suite 100  
Plano, Texas 75075  
(w/o enclosures)