



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 17, 2009

Mr. Clark McCoy  
Wolfe, Tidwell & McCoy, LLP  
2591 Dallas Parkway, Suite 205  
Frisco, Texas 75034

OR2009-11496

Dear Mr. McCoy:

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# 352447 (City of Anna File Nos. C03029PIR20090525-02, C03029PIR20090530-01, C03029PIR20090530-02, C03029PIR20090531-01, and C03029PIR20090607-01).

The City of Anna Police Department (the "department"), which you represent, received five requests for the police reports, lab test results, and recorded conversations pertaining to case numbers 08-000463 and 08-000464.<sup>1</sup> You assert these requests for information were not valid under the Act. In the alternative, you claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also received and considered comments submitted by Ruth Ester. *See* Gov't Code § 552.304 (providing that an interested third party may submit comments stating why information should or should not be released).

Initially, we must address your assertion that the requests for information were improper. Section 552.301(c) of the Government Code provides that "a written request includes a

---

<sup>1</sup>Although the requests were sent to the attorney for the City of Anna (the "city") in addition to department officers, you inform this office the requested information is part of a department file. Thus, because we understand you to represent both the department and the city, we treat these requests as though they were addressed to and received by the department.

request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission.” *Id.* § 552.301(c). You argue that because the e-mail requests were sent to the city’s attorney and two department officers, instead of the city’s chief administrative officer or his designee, the five e-mail requests were improper written requests, and the department did not have a duty to respond. *See generally id.* § 552.301 (governmental body’s duty to request a ruling from the attorney general arises only after it receives a written request). We note, however, that the Act requires the uniform treatment of requestors. *See id.* § 552.223. Open Records Letter No. 2009-10831 (2009) was issued by this office in response to e-mailed requests which were sent from the same requestor to the city attorney and department officers. You did not assert these prior requests were improper. By honoring these prior requests, the department affirmed to the requestor that the procedural aspects of her requests were proper, and that requests e-mailed to the city’s attorney and department officers would be accepted and considered. Accordingly, because the department is required to treat requests uniformly, you may not now assert the requests are improper. Accordingly, we consider your arguments under the Act against disclosure of the submitted information.<sup>2</sup>

The requestor seeks all police reports, lab test results, and recorded conversations pertaining to the responsive case files. Thus, to the extent the submitted records do not relate to the responsive case files, they are not responsive to the requests. One of the submitted documents, an e-mail sent to the department by the requestor seeking the responsive police files and lab tests, does not contain any information responsive to the instant requests. Thus, we conclude this document is not responsive to the requests at issue. This ruling does not address the public availability of any information that is not responsive to the requests, and the department is not required to release this e-mail, which we have marked, in response to the requests. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

All of the responsive information was the subject of previous requests received by the department from the same requestor, in response to which this office issued Open Records Letter No. 2009-10831 (2009). In that ruling, we concluded that certain information may only be released in accordance with the MPA; the department must withhold the information pertaining to case number 08-000464 under section 552.101 in conjunction with section 261.201 of the Family Code; and that, with the exception of basic information, the remaining information may be withheld under section 552.108(a)(1). As we have no indication that there has been any change in the law, facts, or circumstances on which the previous ruling was based, the department must rely on our ruling in Open Records Letter No. 2009-10831 as a previous determination and continue to withhold or release the responsive information in accordance with that ruling. *See Open Records Decision No. 673 (2001)* (so long as law, facts, and circumstances on which prior ruling was based have not

---

<sup>2</sup>In the future, the requestor should submit any e-mailed requests to the city’s chief administrative officer or his designee as required by section 552.301(c) of the Act.

changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As our ruling is dispositive, we need not address your claimed exceptions to disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

---

Sincerely,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 352447

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)