



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 1, 2009

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-16940

Dear Ms. Middlebrooks:

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# 362869 (DPD PIR# 09-7382).

The City of Dallas (the "city") received a request for numerous specified police reports, including the supplements. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.111, 552.117, 552.1175, 552.127, 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim.

We must address the city's procedural obligations under the Act. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld; (2) a copy of the written request for information; (3) a signed statement or sufficient evidence showing the date the governmental body received the written request; and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code §552.301(e)(1)(A)-(D). You state the city received the request on September 11, 2009. However, as of the date of this letter, you have not submitted to this office written comments stating the reasons why the exceptions you have raised would allow the information to be withheld, nor have you provided a copy or representative sample of the information

requested. Consequently, we find the city has failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806, 811 (Tex. App.—Amarillo 2007, pet. granted); *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). In failing to comply with the requirements of section 552.301, the city has waived the raised discretionary exceptions. *See* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Accordingly, the requested information may not be withheld under any discretionary exceptions. Furthermore, by failing to submit any information for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Thus, we have no choice but to order the city to release the requested information in accordance with section 552.302 of the Government Code. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 362869

Enc. Submitted documents

cc: Requestor
(w/o enclosures)