



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2016

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2016-16600

Dear Ms. Armstrong:

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# 619433 (Dallas ORR# 2016-04007).

The Dallas Police Department (the "department") received a request for information concerning a specified incident. You state the department has released all written documentation and the tape recordings concerning the specified incident. You claim the remaining requested information may be excepted from disclosure under sections 552.101, 552.117, 552.1175, 552.127, 552.130, 552.136, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim.

We must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving a request for information it seeks to withhold a copy of the specific information requested or representative samples of the information. *See* Gov't Code § 552.301(e)(1)(D). As of the date of this letter, the department has not submitted to this office a copy or representative sample of the remaining requested information. You inform us the remaining requested information is stored on "1.44mb floppy disks." Although you state the department is unable to review or copy this information "[d]ue to technology upgrades within the department," we note the fifteen-business-day deadline to submit a copy of the information requested is statutorily imposed on the department by section 552.301(e), and this office is required to adhere to this provision when determining the timeliness of the submissions made by the department for purposes of requesting a ruling under the Act. *See id.* §§ 552.301, .302, .306. Additionally, we note a governmental body may not decline

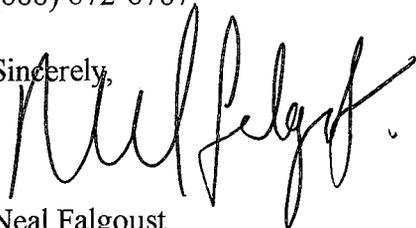
to comply with the requirements of the Act on the ground of administrative inconvenience. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). We conclude the department failed to comply with the procedural requirements mandated by section 552.301(e) regarding the information at issue.

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 the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *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 governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Because you have not submitted the remaining requested information for our review, we have no basis for finding it confidential under any mandatory exceptions. As this office is required by section 552.306 of the Government Code to render a decision not later than the forty-fifth business day after the date this office received the department's request for a decision, we have no choice but to order the remaining requested information released pursuant to section 552.302. *See* Gov't Code §§ 552.302, .306. 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 619433

Enc. Submitted documents

c: Requestor
(w/o enclosures)