



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

March 4, 2003

Mr. James M. Frazier, III
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2003-1401

Dear Ms. Frazier:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 177284.

The Texas Department of Criminal Justice ("TDCJ") received a request for all dates that two named officers were assigned to "Administrative Segregation security duties from September 30, 1999 to November 1, 1999." You claim that the requested information is excepted from disclosure under sections 552.108 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When this exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986).

This office has concluded that section 552.108 excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (holding that section 552.108 excepts detailed guidelines regarding a police department's use of force policy), 508 (1988) (holding that release of dates of prison transfer could impair security), 413 (1984) (holding that section 552.108 excepts sketch showing security measures for execution). The submitted shift roster reveals the staffing levels of security personnel. You claim that disclosure of this roster could compromise the physical security of the unit. We agree that allowing the public to know how many guards are on duty and where they are positioned would interfere with law enforcement. *Cf.* Open

Records Decision No. 508 (1988) (holding that the disclosure of information relating to *past* transfers of inmates would not unduly interfere with law enforcement).

We note, however, that most of the information in the submitted shift rosters is not responsive to the current request. The requestor seeks the dates when two named officers were assigned to administrative segregation during a specified time period. Therefore, the only information on the submitted rosters responsive to this request is the names of the two officers and the dates when these two officers were on duty. Upon review of the submitted information, we conclude that this responsive information does not supply an explanation on its face of how release would interfere with law enforcement. As to this information, we conclude that you have not adequately demonstrated how its release to the public would interfere with law enforcement. Because you have not provided an adequate particularized explanation, you may not withhold the responsive officer names and the dates when these two officers were on duty from public disclosure pursuant to section 552.108(b)(1) of the Government Code.

Section 552.117(3) of the Government Code excepts from disclosure any department employee's home address, home telephone number, social security number, and family member information regardless of whether they have complied with section 552.1175. The responsive information does not contain information protected by section 552.117(3). Accordingly, you must release the requested names and the dates the named officers were on duty included in the submitted shift rosters.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

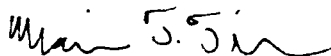
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Maverick F. Fisher
Assistant Attorney General
Open Records Division

MFF/seg

Ref: ID# 177248

Enc: Submitted documents

c: Ms. Deneice Davis
706 Baker Street
Huntsville, Texas 77340
(w/o enclosures)