



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 11, 1992

Ms. Mary Kay Fischer
Assistant City Attorney
City of Galveston
Legal Department
P. O. Box 779
Galveston, Texas 77553-0779

OR92-329

Dear Ms. Fischer:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15828.

You have received a request for information relating to security measures the City of Galveston (the "city") implemented in connection with the February 29, 1992 Mardi Gras Parade. Specifically, the requestor seeks seven categories of information, including information about city expenditures for security measures, work and time sheets, certain correspondence concerning security, records of policemen "hired out," records indicating the number of policemen who worked during the parade, and other records relating to parade security. You assert that portions of the "Galveston Police Department Mardi Gras pay records listing by selected job code" are excepted from required public disclosure by section 3(a)(8) of the Open Records Act. Because you do not comment on the remainder of the requested information, we presume it has been or will be made available to the requestor. *See* Open Records Decision No. 363 (1983) (if a governmental body fails to explain how and why a particular exception applies to requested information, it is presumed public).

Section 3(a)(8) excepts:

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement

agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether disclosure of particular records will unduly interfere with law enforcement must be determined on a case-by-case basis. Open Records Decision No. 409 (1984).

We have examined the documents submitted to us for review and have considered your arguments. You state:

The release of specific time and location where the officer is posted, if revealed, would endanger the life or physical safety of law enforcement personnel, as well as the general public. Its disclosure would place an individual at an advantage in confrontation with police by publicizing the whereabouts and numbers of officers in strategic locations.

Previous decisions issued by this office have addressed the applicability of the section 3(a)(8) exception to law enforcement records reflecting the distribution of law enforcement personnel. Open Records Decision No. 456 (1987) involved a request for information relating to the identity of businesses that employ off-duty police officers. Release of the information was denied because it indicated which businesses at which time were not protected. The law enforcement implications of this situation were clear. Similarly, Open Records Decision No. 413 (1984) involved a request for information relating to security measures at a specific prison at a specific time. Disclosure was denied to maintain necessary order during the scheduled execution. In each of these cases, the requested information was excepted from required public disclosure because it related to specific locations or specific times. If an individual with criminal intent knows precisely where and when the opportunities for crime are at their most advantageous, then the efforts of law enforcement clearly are undermined.

We have examined the information submitted to us for review and conclude that it would, if released, undermine police security efforts at a specific time and location. We conclude, therefore, that its release would undermine a legitimate law

enforcement interest. *See* Open Records Decision No. 456 (1987). Accordingly, the marked portions of the document submitted to us for review may be withheld from required public disclosure under section 3(a)(8) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-329.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/GCK/lmm

Ref.: ID# 15828
ID# 15865

cc: Mr. Jim Mabe
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