



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 2, 1998

Mr. Dick Gregg, Jr.  
Gregg, Mieszuk, Lewis & Daughtry, P.C.  
17044 El Camino Real  
Clear Lake City  
Houston, Texas 77058

OR98-0567

Dear Mr. Gregg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112821.

The City of Kemah (the "city"), which your firm represents, received a request for "the name, title, and date of employment of the officers with badge (radio) numbers 4204, 4207, 4211 and 4216."<sup>1</sup> In response to the request, you submitted to this office for review the information which you assert is responsive. You claim that the requested information is excepted from required public disclosure by section 552.108 (b) of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code, , the "law enforcement exception," in part, reads as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

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<sup>1</sup>In separate correspondence to this office, the requestor alleges that "[t]o date, the City of Kemah has refused to comply with my requests," for information. This situation raises a question of fact. This office is unable to resolve questions of fact through the opinion process. Open Records Decision Nos. 554 (1990), 552 (1990).

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

*See* Gov't Code § 552.108.<sup>2</sup> In your original letter to this office requesting a ruling, you asserted that "the connection of the name of a police officer with his badge (radio) number and date of employment is an internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matter relating to law enforcement or prosecution."<sup>3</sup>

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<sup>2</sup>The "law-enforcement exception" was not intended by the legislature to shield from public view information in the hands of police units that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit. *See* Open Records Decision Nos. 434 (1986) at 2, 287 (1981) at 2 (whether information falls within section 552.108 must be determined on a case-by-case basis).

<sup>3</sup>You further assert that "[s]uch information in the wrong hands can be dangerous." However, we note that the legislature has prohibited governmental bodies from inquiring into the motives of a requestor in seeking information. Gov't Code § 552.222(b).

We have reviewed the submitted information and your arguments, and conclude that the requested information may not be withheld from disclosure under section 552.108. *See generally* Open Records Decision Nos. 139 (1976) (names, sex, ethnicity, salaries, titles, and dates of employment for employees are generally public), 132 (1976); *see also Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, in this instance, the submitted information may not be withheld pursuant to the claimed exception.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 112821

Enclosures: Submitted documents

cc: Ms. Eric L. Baumgart  
P. O. Box 1467  
Kemah, Texas 77565  
(w/o enclosures)