



June 7, 2000

Mr. Steven Monté
Assistant City Attorney
Office of City Attorney
Criminal Law and Police Section
2014 Main Street, Room 206
Dallas, Texas 75201

OR2000-2221

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135929.

The City of Dallas (the "city") received a request for a copy of the police department's officer manuals and procedural guides,

including and not limited to directives and guidelines regarding officer conduct, undercover operations guidelines (including participation in illegal activities), electronic surveillance, search and seizure, handling of physical evidence, use of official vehicles and official funds, report writing, investigative and case files, liaisons with county, state, and federal investigative activities, strategic intelligence, and special field intelligence.

You state that the city intends to release some of the requested information. However, you claim that the remainder of the requested information, rules and procedures governing the undercover narcotics work, is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 provides in pertinent part as follows:

(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[.]

Gov't Code § 552.108(b)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

This office has held that section 552.108 excepts portions of use of force procedures that state detailed guidelines on the use of force. Open Records Decision No. 531 (1989). However, portions of the procedures that relate to generally known common law rules, constitutional limitations, or Penal Code provisions are deemed public information. *Id.* Also excepted is information regarding undercover narcotics work, including all information which would reveal the identity of those engaged in such work, or would reveal when and where employees had traveled on sensitive assignments. Open Records Decision Nos. 211 (1978), 143 (1976) (applying the predecessor of section 552.108).

You explain that the submitted information contains “information central to sensitive procedures utilized by the Narcotics and Vice Divisions. If this information [were] released, such disclosure would severely hinder drug and vice-related law enforcement” After a review of your arguments and the submitted information, we agree that you may withhold most of the of the submitted information. However, we do not believe that you have shown how release of several of the submitted procedural rules would interfere with law enforcement. For example, the submitted information contains rules governing how evidence is documented and maintained, guidelines regarding news media personnel who accompany and observe narcotics operations, and procedures for the use and accounting of expenditure funds. You have not explained and it is not apparent how releasing these types of internal rules would interfere with law enforcement, and therefore, the city may not withhold these types of rules under section 552.108. Accordingly, while the city may withhold most of the submitted information under section 552.108(b), it must release the information that we have marked.

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 Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. 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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 135929

Encl: Submitted documents

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(w/o enclosures)