



September 13, 2000

Mr. Michael R. Little
District Attorney
Chambers and Liberty Counties
P.O. Box 4008
Liberty, Texas 77575

OR2000-3531

Dear Mr. Little:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138990.

The Chambers County Narcotics Task Force (the "task force") received a written request for a named employee's "Investigator's Daily Activity Reports," including the "Explanation of Funds Expended." The requestor also seeks the task force's "Case Log Books for the years 1995-2000." You contend that the requested information is excepted from required public disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code.

We have reviewed your arguments for withholding the "Investigator's Daily Activity Reports" and the "Explanation of Funds Expended" and conclude that you have established that the release of these records would endanger the lives of various individuals. This office has previously determined that information may be withheld pursuant to section 552.101 of the Government Code upon a demonstration of "truly exceptional circumstances such as, for instance, an imminent threat of physical danger." Open Records Decision No. 169 at 6 (1977). We conclude, therefore, that the task force may withhold the "Investigator's Daily Activity Reports" and the "Explanation of Funds Expended" in their entirety pursuant to section 552.101 of the Government Code.

We now address whether the task force may withhold the requested "Case Log Books," which you contend are excepted from public disclosure under sections 552.103 and 552.108 of the Government Code. After reviewing these logs, this office concludes that the information contained therein consists primarily of "basic information about an arrested person, an arrest, or a crime" that is not excepted from disclosure under either section 552.103, *see* Open Records Decision No. 597 (1991), or section 552.108. Gov't Code § 552.108(c). The only information contained in the logs that we conclude the task force

may withhold from public disclosure pursuant to section 552.108(b)(1) are the initials of the undercover narcotics agents.¹ See Open Records Decision Nos. 211 (1978), 143 (1976) (disclosure of information which would reveal identity of those engaged in undercover narcotics work protected by statutory predecessor to section 552.108). All remaining portions of the requested logs must be released to the requestor.

In summary, the task force must withhold the "Investigator's Daily Activity Reports" and the "Explanation of Funds Expended" pursuant to section 552.101 of the Government Code to protect the safety of the individuals contained therein. The initials of undercover narcotic agents contained in the "Case Log Books" may be withheld from the public pursuant to section 552.108(b)(1) of the Government Code, but all remaining information in the logs must be released.

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

¹Section 552.108(b)(1) of the Government Code provides an exception for an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." Although you also contend that some of the information in the logs would identify confidential informers, you have not marked any such information in the documents at issue, see Gov't Code § 552.301(e)(2), or otherwise adequately explained how the informers' identities could be revealed where the initials of the undercover agents are redacted. We therefore have no basis on which to conclude that any information in the logs is protected by the informer's privilege as incorporated into section 552.101 of the Government Code.

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).

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 the General Services 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. 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,



Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/RWP/pr

Ref: ID# 138990

Encl. Submitted documents

cc: Mr. David Raziq
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(w/o enclosures)