



May 21, 2002

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR2002-2724

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 163158.

The Dallas Police Department (the "department") received a request for information relating to confidential informants. You have informed the requestor that the department will release to the requestor portions of the requested information, including a copy of an old policy manual with redactions you made in accordance with Open Records Letter No. 02-1188 (2002).¹ The Act requires the city to promptly release requested public information. *See* Gov't Code § 552.221(a). You claim that portions of the requested information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered the comments submitted by the Dallas Division of the Federal Bureau of Investigation (the "FBI"). *See* Gov't Code § 552.304 (providing for submission of public comments).

You seek to withhold from the requestor information regarding policies and procedures for paying confidential informants. Section 552.108(a)(1) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. Where an incident involving allegedly criminal

¹ In Open Records Letter No. 2002-1188 (2002), this office determined that based on sections 552.101 and 552.108, the department may or must withhold portions of the requested information. So long as the law, facts, and circumstances on which the prior ruling was based have not changed, you may or must withhold the information at issue in Open Records Letter No. 2002-1188 based on sections 552.101 and 552.108. *See* Open Records Letter No. 673 (2001).

conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information which relates to the incident. *See* Open Records Decision Nos. 474 (1987), 372 (1983); *see also* Open Records Decision No. 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108).

You explain that the requested information reveals procedures for establishing and maintaining a working relationship with an informant. You further argue that release of the information at issue would interfere with law enforcement because it would jeopardize the safety of officers and informants, and hinder officers' ability to establish relationships with informants. In addition, the FBI has submitted to this office arguments that release of information would interfere with an ongoing FBI criminal investigation. Based on your arguments, the FBI's representation, and our review of the submitted information, we agree that release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Accordingly, the department may withhold from disclosure the information based on section 552.108.

In summary, the department may withhold from disclosure the information based on section 552.108.

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).

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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/sdk

Ref: ID# 163158

Enc: Submitted documents

c: Ms. Geraldine Moriba-Meadows
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(w/o enclosures)