OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

January 14, 2003

Mr. James M. Frazier III
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2003-0281

Dear Mr. Frazier:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 175095.

The Texas Department of Criminal Justice (the "department") received a request for shift rosters at the Garza West prison unit from July 24 through October 18, 2002. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.[1]

Section 552.108(b)(1) of the Government Code excepts from public disclosure 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." A governmental body that raises section 552.108(b)(1) 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 and crime prevention. *See* Gov't Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 531 (1989).

You explain that a shift roster is a document generated at the beginning of a shift that is produced daily and identifies who is on duty and at what post within the prison unit. You state that the requested shift rosters indicate the name and precise placement of each officer

[1]This letter ruling assumes that the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

in the prison unit, as well as whether a particular post was manned, on a particular date. You contend that this information, if released, could "help inmates in their future attempts to circumvent the security of the prison unit," and "could be used to compromise the physical security of the unit." Having considered your arguments and reviewed the submitted information, we agree that the release of this information would interfere with law enforcement and crime prevention. Accordingly, the department may withhold this information under section 552.108(b)(1) of the Government Code. *See also* Open Records Decision No. 413 (1984) (statutory predecessor protected sketch showing security measures to be used during next scheduled execution). As we are able to make this determination, we need not address section 552.117.

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).

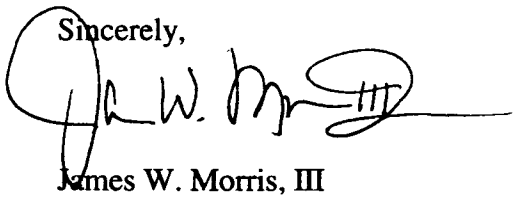
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 175095

Enc: Submitted documents

c: Ms. Marcy Eaves
1201 E. Fannin
Beeville, Texas 78102
(w/o enclosures)