

The ruling you have requested has been amended as a result of litigation and has been attached to this document.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2003

Ms. Maleshia Brown Farmer
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2003-7858

Dear Ms. Farmer:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 190335.

The City of Fort Worth (the "city") received a request for the emergency and evacuation plans for the Main Street Arts Festival written by the Fort Worth Police Department and Fire Department and the emergency and evacuation plans presented to the city by City Center Security. Additionally, the requestor seeks information and answers to specific questions regarding the city's emergency and evacuation plans at the festival. You claim that the requested information is excepted from disclosure under sections 552.108 and 552.127 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement),

456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 252 (1980) (Gov't Code § 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). In Open Records Decision No. 506 (1988), this office determined that the statutory predecessor to section 552.108 protects from required public disclosure the cellular mobile phone numbers assigned to public and private vehicles used by county officials and employees with specific law enforcement responsibilities. In that decision, we noted that the purpose of the cellular telephones is to ensure immediate access to individuals with specific law enforcement responsibilities, and that public access to these numbers could interfere with that purpose. *Id.* at 2. Generally known policies and techniques, however, may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under Gov't Code § 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known).

You state that the submitted information “divulges the intricate internal workings of the police department’s methods, techniques, and strategies for preventing and detecting crime during large events held [in] downtown Fort Worth.” You assert that revealing information like what tactics, techniques and procedures the officers are to use in the event of a bomb threat or civil unrest, where each officer will be located and the time of his or her shift, and whether or not an officer will be on foot, bike horse or vehicle would undermine police efforts. You further assert that “revealing this type of information would permit private citizens with criminal intentions to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State.” You note that although the submitted information pertains to an event that has already passed, the department uses the same plan each year, with minor changes in personnel and barricade details, for this festival and for most events held downtown. Upon review, we conclude that a portion of the information found in exhibit C, including the cellular telephone and pager numbers of certain peace officers which we have marked, would interfere with law enforcement and may be withheld under section 552.108(b)(1). However, we find that you have not met your burden of explaining how and why release of the remaining information found in exhibit C would interfere with law enforcement and crime prevention. Thus, the remaining information in exhibit C must be released.

Next, we address your section 552.127 of the Government Code argument for the remainder of the information. Section 552.127 excepts information from public disclosure if the information identifies a person as a participant in a neighborhood crime watch organization and relates to the name, home address, business address, home telephone number, or business telephone number of the person. You state that Code Blue is a “volunteer organization of citizens of Fort Worth that patrol neighborhoods for possible criminal

violations and violations of City Ordinance.” The information found in exhibit D consists of the names and patrol schedules of the members of Code Blue. The information identifies members of the crime watch organization directly by name. Thus, the identifying information we have marked in exhibit D is excepted from disclosure under section 552.127 of the Government Code. The remaining information in exhibit D must be released to the requestor.

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 Dep’t of Pub. 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,

A handwritten signature in black ink, appearing to read "Debbie K. Lee". The signature is fluid and cursive, with a long horizontal stroke at the end.

Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 190335

Enc. Submitted documents

c: Mr. Russell McVean
1409 Augusta Road
Benbrook, Texas 76126
(w/o enclosures)

CAUSE NO. GV304609

THE CITY OF FORT WORTH AND GARY JACKSON, IN HIS OFFICIAL CAPACITY AS CITY MANAGER AND AS OFFICER FOR PUBLIC INFORMATION,
Plaintiffs,

V.

GREG ABBOTT, ATTORNEY GENERAL, OF TEXAS,
Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

AGREED FINAL JUDGMENT

On this date, the Court heard the parties' motion for entry of an agreed final judgment. The City of Fort Worth and Gary Jackson, in his official capacity as city manager and officer for public information, (collectively, referred to as "the City") and Greg Abbott, Attorney General of Texas, appeared by and through their respective attorneys and announced to the court that all matters of fact and things in controversy between them had been fully and finally compromised and settled. This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552. The parties represent to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the requestor was sent reasonable notice of this setting and of the parties' agreement that the City may withhold the information at issue; that the requestor was also informed of his right to intervene in the suit to contest the withholding of this information; and that the requestor, Russell McVean, has not informed the parties of his intention to intervene. Neither has the requestor filed a motion to intervene or appeared today. After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

FILED

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED that:

04 APR 30 PM 3:42

Wesley P. Henderson

DISTRICT CLERK
TRAVIS COUNTY, TEXAS

1. The information at issue, specifically, the identification of command posts, staging areas, evacuation points and other centralized locations for emergency management used in the annual Main Street Arts Festival and marked for redaction in Exhibit C, in its submission to the Attorney General, dated December 31, 2003, is excepted from disclosure by Tex. Gov't Code §552.108(b)(1).

2. The City may withhold the information at issue from the requestor.

3. If it has not already done so, the City shall release to the requestor a redacted version of Exhibit C, redacting the information at issue and information the Attorney General ruled, in OR2003-7858, could also be withheld. The City shall release the redacted version no later than three days after receipt of the Agreed Final Judgment signed by the Court.

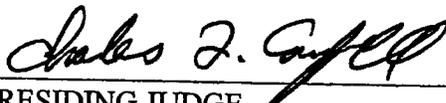
4. This Judgment prevails over Letter Ruling OR2003-7858 to the extent of any inconsistency.

5. All costs of court are taxed against the parties incurring the same.

6. All relief not expressly granted is denied.

7. This Agreed Final Judgment finally disposes of all claims between Plaintiffs and Defendant and is a final judgment.

SIGNED this the 30th day of April, 2004.


PRESIDING JUDGE

APPROVED:



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