



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2007

Ms. Katherine Powers
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2007-01248

Dear Ms. Powers:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 270524.

The Dallas Police Department (the "department") received a request for information pertaining to a specified internal affairs investigation. You indicate that you will release most of the requested information. You claim that some of the submitted information is excepted from disclosure under sections 552.108, 552.117, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that department officers' pager numbers are protected from public disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) excepts 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." Gov't Code § 552.108(b)(1). You claim that release of the officers' pager numbers would interfere with law enforcement as it would interfere with the ability of the department's officers to perform their job duties. Having reviewed your arguments and the submitted information, we agree that release of the pager numbers would interfere with law enforcement or crime prevention. *See* Open Records Decision No. 506 at 2 (1988) (statutory predecessor to section 552.108(b) excepted from disclosure the cellular mobile phone numbers assigned to Harris County officials and employees with specific law enforcement responsibilities). Accordingly, the department may withhold the submitted pager numbers, which you have marked, under section 552.108(b)(1) of the Government Code.

Section 552.117(a)(2) excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code.¹ Pursuant to section 552.117(a)(2), the department must withhold the officers' home telephone numbers you have marked in the remaining submitted information.

Finally, you assert that some of the remaining information is excepted under section 552.136 of the Government Code. Section 552.136(b) states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. You inform us that an employee's identification number is the same number used for credit union bank accounts that belong to the City of Dallas. Based on this representation, we agree that the department must withhold the identification numbers you have marked under section 552.136.

In summary, the department (1) may withhold the information you have marked under section 552.108(b)(1) of the Government Code and (2) must withhold the information you have marked under sections 552.117(a)(2) and 552.136 of the Government Code. The department must release the remaining submitted information 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the

¹Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure.

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 Office of the Attorney General 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,



Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/jww

Ref: ID# 270524

Enc. Submitted documents

c: Ms. Jane E. Bishkin
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(w/o enclosures)