



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2007

Ms. Judith Sachitano Rawls
Assistant City Attorney
Beaumont Police Department
P. O. Box 3827
Beaumont, Texas 77704-3827

OR2007-02612

Dear Ms. Rawls:

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# 272910.

The City of Beaumont (the "city") received a request for "time sheets for all shifts at the Beaumont Police Department for October 2006[, including] time sheets for each employee" and information "relating to officers, staff or other employees being tracked via GPS as part of the new in-car computer system." You state that the city does not maintain the requested "time sheets," but has identified certain payroll records as responsive to that portion of the request.¹ You indicate that some responsive information will be provided to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us that the city asked the requestor to clarify part of the request. We note that a governmental body may communicate with a requestor for the purpose of clarifying or narrowing a request for information. *See* Gov't Code § 552.222(b); Open Records Decision No. 663 at 2-5 (1999). You indicate that the city has not received a response to its request for clarification. Accordingly, we find that the city has no obligation at this time to release any information that may be responsive to the part of the request for which it has sought clarification. However, if the city receives a response to its request for clarification and

¹The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, the governmental body must make a good faith effort to relate a request to the information it holds. Open Records Decision Nos. 561 (1990), 87 (1975); *see* Gov't Code § 552.353 (providing penalties for failure to permit access to public information).

wishes to withhold any information to which the requestor seeks access, the city must request another decision from this office. *See* Gov't Code §§ 552.301, 552.302.

Section 552.108(b)(1) of the Government Code excepts from required public disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor 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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this section is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). This office has concluded that section 552.108(b)(1) protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed guidelines regarding police department's use of force policy), 508 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution), 211 (1978) (information relating to undercover narcotics investigations), 143 (1977) (log revealing use of electronic eavesdropping equipment). You seek to withhold the submitted payroll information which pertains to undercover police officers “as the release of their names and the hours worked could compromise the safety of the officers and the undercover operations in which the officers are currently working.” Based upon your representations and our review, we agree that release of the information at issue would interfere with law enforcement. We therefore conclude that the city may withhold the submitted information under section 552.108(b)(1) of the Government Code. As our ruling is dispositive, we do not address your remaining claims.

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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 272910

Enc. Submitted documents

c: Mr. Jerry Jordan
The Examiner Newspaper
795 Willow
Beaumont, Texas 77701
(w/o enclosures)