



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 6, 2011

Ms. Catherine L. Clifton  
Senior Assistant City Attorney  
City of Odessa  
P.O. Box 4398  
Odessa, Texas 79760-4398

OR2011-04756

Dear Ms. Clifton:

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# 413874.

The City of Odessa (the "city") received a request for all "city issued and city paid cell[ular] [tele]phone numbers," as well as the name of the city employee who carries the telephone. You state the city has released some of the requested information. You claim that portions of the submitted 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.

Section 552.108(b)(1) excepts from required public disclosure an internal record of a law enforcement agency 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 seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). In Open Records Decision No. 506 (1988), this office determined that the statutory predecessor to section 552.108(b) excepted from disclosure "cellular mobile telephone numbers assigned to county officials and employees with specific law enforcement responsibilities." *Id.* at 2. We noted that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.* We also note that, for the purposes of section 552.108, the

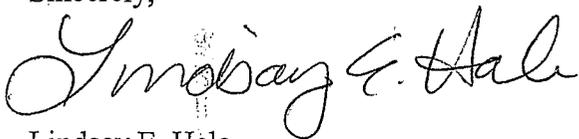
arson investigation division of a fire department is considered a law enforcement unit. See Open Records Decision No. 127 at 8 (1976).

You inform us that the cellular telephone numbers for the individuals you have marked are assigned to law enforcement personnel within the police department, fire department, Building Inspections division, and Neighborhood Development Services division in order to "ensure immediate access to those individuals for law enforcement and public safety reasons." You explain the personnel within the fire department to whom these numbers are assigned are fire marshals and inspectors who are sworn peace officers and investigate criminal conduct. You further explain the personnel within the Building Inspections and Neighborhood Development divisions to whom these numbers are assigned are charged with enforcing laws and are authorized to issue criminal citations for building code or ordinance violations. You assert that the release of these cellular telephone numbers would interfere with law enforcement accessibility. Based on your representations and our review, we conclude that the city may withhold the cellular telephone numbers for the individuals you have marked under section 552.108(b)(1) of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 413874

Enc. Submitted documents

c: Requestor  
(w/o enclosures)