



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2011

Ms. Charlotte A. Towe
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-16679

Dear Ms. Towe:

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# 436162.

The Texas Department of Criminal Justice (the "department") received a request for shift rosters at the Pam Lychner State Jail from May 30, 2011 to June 6, 2011 and the inter-office memo from Assistant Warden Ronald Givens concerning "counting at prepare to count." You state some of the requested information has been released to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requested shift rosters are subject to a previous determination issued by this office in Open Records Letter No. 2004-6370 (2004). In that ruling, this office ruled the department may withhold shift rosters for its prison units from public disclosure for security reasons under section 552.108(b)(1) of the Government Code. Therefore, the department may withhold the requested shift rosters under section 552.108(b)(1) pursuant to the previous determination issued in Open Records Letter No. 2004-6370. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)). However, we will consider the submitted argument for the information not subject to the previous determination.

Section 552.108(b)(1) of the Government Code excepts from 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[.]" *Id.* § 552.108(b)(1); *see*

City of Fort Worth v. Cornyn, 86 S.W.3d at 327 (Gov't Code § 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). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See e.g.* Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted information relates to the day-to-day management of prisoners. You inform us the submitted information could “help inmates in their future attempts to circumvent the security of the prison unit” and “compromise the physical security of the unit.” Upon review, we find the department has demonstrated release of the submitted information would interfere with law enforcement or crime prevention. We therefore conclude the department may withhold the submitted information 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, 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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 436162

Enc. Submitted documents

c: Requestor
(w/o enclosures)