



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 23, 1995

Mr. Charlie F. McNabb  
First Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR95-456

Dear Mr. McNabb:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33849.

The City of El Paso (the "city") received an open records request for "the names of people who the city pays a cellular bill for and all cellular phone bills for the current fiscal year to date." You state that you have not released the cellular telephone bills of the police department. You argue that "the bills if released will include phone numbers of informants as well as suspects in various operations." Further, you argue that release of telephone numbers used as well as the time of day will reveal police procedures. You contend that section 552.108 of the Government Code, commonly referred to as the law enforcement exception, prevents the release of this information. Also, you seek to withhold this information pursuant to the informer's privilege in conjunction with section 552.101 of the Government Code. You have submitted a representative sample of the cellular telephone bills at issue.

Section 552.108 provides that:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, and prosecution of crime is excepted from [required public disclosure].

(b) An 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 is excepted from [required public disclosure].

Section 552.108 excepts certain records of law enforcement agencies whose primary function is to investigate crimes and enforce criminal laws. Open Records Decision Nos. 493 (1988) at 2, 287 (1981) at 2. In Open Records Decision No. 506 (1988) at 2, this office held that the cellular telephone numbers assigned to county officials and employees with specific law enforcement responsibilities are excepted from required disclosure by section 552.108 of the Government Code. In accordance with our decision in Open Records Decision No. 506 (1988), and pursuant to section 552.108, we conclude that you may withhold the telephone numbers assigned to members of the police department with specific law enforcement responsibilities.

You contend that the city should not release the police cellular telephone bills because some of the telephone numbers called are those of confidential informants which if revealed may endanger their lives as well as reveal various police operations. One of the purposes of the law enforcement exception is to prevent law enforcement and crime prevention techniques from being readily available to the public at large. *Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied) (citing Open Records Decision No. 133 (1976)). We conclude that the release of the telephone numbers called by city employees with law enforcement responsibilities could seriously impair law enforcement efforts. Based upon section 552.108 of the Government Code, the city may withhold from disclosure the telephone numbers called on assigned cellular telephones. Accordingly, we have marked the representative sample you submitted to this office to reflect the portions of the cellular telephone bills that you may withhold from the requestor pursuant to section 552.108 of the Government Code. The city, however, must release the remainder of the information on the bills. Open Records Decision No. 506 (1988).

Since we hold that the city's cellular telephone numbers related to employees with law enforcement responsibilities and the telephone numbers that they call may be withheld from disclosure under section 552.108, we do not need to address the applicability of section 552.101 to this request.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Kathryn P. Baffes". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kathryn P. Baffes  
Assistant Attorney General  
Open Government Section

KPB/RHS/rho

Ref: ID# 33849

Enclosures: Marked documents

cc: Ms. Tammy D. Fonce  
Reporter  
El Paso Herald-Post  
P.O. Box 20  
El Paso, Texas 79909  
(w/o enclosures)