



November 1, 2001

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2001-5018

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 154254.

The Texas Department of Criminal Justice (the “department”) received a request for “the front copy of 1st shift turnout rosters for April 9, 2001, June 6 & 7, 2001, [and] June 8 – Aug 10, 2001.” You claim that the requested 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.

Section 552.108(b)(1) of the Government Code excepts from public disclosure 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.” To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would unduly interfere with law enforcement; the determination of whether the release of particular records would unduly interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You explain that this request is for copies of specific shift rosters for specified dates at the department’s Lynaugh Unit in Fort Stockton. You further explain that a “shift roster identifies every post that is to be occupied on a particular shift, who was assigned to what post on a specific shift on a specific day,” and that the shift roster “may also contain comments on specific security issues about which staff were given notice or gave special attention.” In further support of the applicability of section 552.108(b)(1), you argue that

[r]elease of shift rosters could compromise the safety of a prison in at least several ways. The more one knows about the details of a penal facility's operations, the better one is able to frustrate its security and do evil. The identification of which posts are occupied and which are not would identify exploitable or expandable holes in prison security. Knowing where people are not active could tell someone where to go to break into or out of a prison or to work mischief within a prison.

Having reviewed your arguments and the submitted information, we agree that the release of the information would interfere with law enforcement or crime prevention. Accordingly, the department may withhold the requested information from disclosure under section 552.108(b)(1).

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).

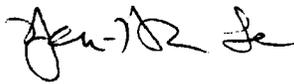
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Dept. of Public 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 General Services Commission 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/DKB/sdk

Ref: ID# 154254

Enc: Submitted documents

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(w/o enclosures)