



November 15, 2002

Mr. Gordon Bowman  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2002-6531

Dear Mr. Bowman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172218.

The Travis County Facilities Management Office (the "county") received a request for "all records pertaining to fire safety for the Blackwell-Thurman Criminal Justice Center, including the fire escape plans for all floors in the 10-story building, all records of fire drills conducted at the building since its opening in December 2000, and all records of any fires that may have occurred in the building since its opening to the public." You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. You tell us that you have released all other information responsive to the request. We have considered the exceptions 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 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). This office has previously held that release of routine investigative procedures, techniques that are commonly known, and routine personnel information would not unduly interfere with law enforcement and crime prevention. *See* Open Records Decision Nos. 216 at 4 (1978), 133 at 3 (1976).

You tell us that the criminal justice center contains the county and district criminal courts, the Travis County Jail, and the Central Booking Facility. The Sheriff is responsible for the safety of the courthouse and the jail. Loc. Gov't Code §§ 291.003, 351.041. You have submitted to this office as responsive to the request the interim emergency action plan and the evacuation routes for all floors of the building. You state that the Sheriff wants this information withheld and contend that this information is excepted from disclosure by section 552.108(b)(1) because

[i]f an individual desired to create a false emergency and intercept court, law enforcement personnel or inmates in the Jail or Central Booking, the attached evacuation routes would provide information regarding the flow of personnel and inmates during an emergency evacuation, which that individual might use to his advantage against the interests of law enforcement and public safety. In addition, the Emergency Action Plan would aid in ascertaining what is perceived as a legitimate emergency event and the responses to such an event.

We agree that, in this instance, release of the evacuation routes and some sections of the interim emergency action plan, which we have marked, would interfere with law enforcement and undermine the security of the facility in question. You may withhold this information pursuant to section 552.108(b)(1). You must release the remaining sections of the interim emergency action plan.

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 Department 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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Jennifer E. Berry  
Assistant Attorney General  
Open Records Division

JEB/sdk

Ref: ID# 172218

Enc: Submitted documents

c: Mr. Duggan Flankin  
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