



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2005

Ms. Elizabeth Marie Zuniga  
Public Information Specialist  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR2005-00214

Dear Ms. Zuniga:

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# 216554.

The City of McAllen (the "city") received a request for "[a]ll numbers for cell phones and pagers paid for by the city and the names of the corresponding city associates or employees who are in possession of those cell phone and pagers." You claim that a portion of the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first address your claim under section 552.108(b)(1) of the Government Code. This section 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." A governmental body that relies on section 552.108(b)(1) must sufficiently explain, if the requested information does not supply an explanation on its face, how and why the release of the information would interfere with law enforcement and crime prevention. *See Gov't Code* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989).

You indicate that the information you seek to withhold consists of internal cellular telephone numbers used by officers of the city's Drug Task Force to carry out law enforcement

responsibilities. You assert that the release of this information would interfere with law enforcement because it would interfere with the ability of the police officers to perform their job duties. In Open Records Decision No. 506 (1988), we determined that the statutory predecessor to section 552.108(b) excepted from disclosure “the cellular mobile phone numbers assigned to [Harris C]ounty officials and employees with specific law enforcement responsibilities.” Open Records Decision No. 506 at 2 (1988). 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.* Because the cellular telephone numbers at issue in this instance are assigned to the city’s police officers to be used for law enforcement purposes, we find that the city may withhold these cellular telephone numbers under section 552.108(b)(1). As our ruling on this issue is dispositive, we need not address your remaining argument.

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 Dep't of Pub. 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,



L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/seg

Ref: ID# 216554

Enc. Submitted documents

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(w/o enclosures)