



August 1, 2000

Mr. John Steiner  
Division Chief  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546

OR2000-2895

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137746.

The Austin Police Department (the "department") received a request for ten categories of information related to a "bait" car used by the department. You claim that information responsive to the following items is excepted from public disclosure

4. Records listing any modifications made to vehicle, including but not limited to: installation of camera, audio, equipment and any device used to record incident;
5. Records indicting length of time vehicle left [at a specific location];
6. A list of people charged with burglary of a vehicle, car theft, and unauthorized motor vehicle use, and any other violation of state, city, or federal law in connection with this vehicle; and
7. A list of locations car used as a bait car.

You claim that information responsive to these request items is excepted from public disclosure by sections 552.101, 552.103, and 552.108 of the Government Code.

In pertinent part section 552.108 provides

- (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 the [public disclosure] requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

...

(c) This section does not except from the [public disclosure] requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3(1986). Whether disclosure of particular records will interfere with crime prevention must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981). In this case, from your assertions and our review of the submitted information, we conclude that release of the submitted information would reveal the pattern and methods used by the department in its utilization of the subject "bait" car in a program of law enforcement. We find that this information is excepted from disclosure by Government Code section 552.108(b)(1), and that it does not constitute "basic" information. You may therefore withhold this information

Since the discussion under section 552.108 disposes of this request your additional arguments are not addressed. 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).

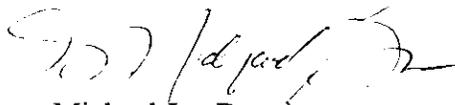
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

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,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/ljp

Ref: ID# 137746

Encl Submitted documents

cc: Ms. Betty Rodriguez  
Juvenile Public Defender  
2201 Post Road, Suite 103  
Austin, Texas 78704  
(w/o enclosures)