



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 4, 2009

Ms. Evelyn W. Njuguna
Assistant City Attorney
City of Houston Legal Department
P.O. Box 368
Houston, Texas 77001-0368

OR2009-15728

Dear Ms. Njuguna:

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# 360899 (PIR No. 16080).

The Houston Police Department (the "department") received a request for information regarding criminal history inquiries made on several named individuals or by a named officer. 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 representative sample of information.¹

We understand you to raise section 552.108(b)(1) of the Government Code. Section 552.108(b)(1) excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no writ). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

office has concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (Gov't Code § 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORD 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You inform us that the requested information consists of logs documenting inquiries into criminal history databases made by department employees. You explain that release of these logs "could logically be used by individuals to circumvent a criminal investigation or detect patterns of investigation conducted by [the department]." You further state that "allowing an individual to discover whether [the department] has or has not made inquiries not only hinders law enforcement investigations but poses a significant risk to law enforcement personnel." Thus, you assert that release of the requested information would interfere with law enforcement activities. Based on your arguments and the information you provided, we agree that release of the requested information would interfere with law enforcement. We therefore conclude that the requested information may be withheld under section 552.108(b)(1) of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

Ref: ID# 360899

Enc. Submitted documents

c: Requestor
(w/o enclosures)