



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2010

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-00222

Dear Ms. Smith:

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# 367029 (ORR# 09-2082).

The Texas Department of Public Safety (the "department") received a request for a list of all law enforcement officers and other entities who used a database containing license plate information to search for specified license plates and search result information given to two named organizations and four named individuals. You indicate you do not have a portion of the requested information.¹ You claim the submitted 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 required public disclosure "[a]n 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 . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this section is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). This office has concluded section 552.108(b)(1) protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.,* Open Records Decision Nos. 531 (1989) (detailed guidelines regarding police department's use of force policy), 508 (1988) (information relating to future transfers

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

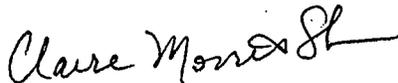
of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution), 211 (1978) (information relating to undercover narcotics investigations), 143 (1977) (log revealing use of electronic eavesdropping equipment).

You state the record sought by the requestor in this instance is a log of inquiries made via the Texas Law Enforcement Telecommunications System ("TLETS"), which provides local access to information maintained by the Texas Crime Information Center and the National Crime Information Center. You assert the release of internal information concerning inquiries "will unduly complicate the law enforcement efforts of agencies statewide which make those inquiries by unnecessarily exposing information concerning those agencies' activities." You state "a records check might be run well before the time an individual is officially or openly identified as a suspect in a case and before the individual has even been contacted by police." You contend "an individual engaged in illegal activity who can find out whether any law enforcement agency has run checks on him/her . . . can obviously gain valuable knowledge in terms of concealing his/her activities from law enforcement scrutiny." Thus, you assert release of the requested information would interfere with law enforcement activities. Based on your arguments and the information you have provided, we agree release of the requested information would interfere with law enforcement. We therefore conclude the department may withhold the requested information 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 367029

Enc. Submitted documents

c: Requestor
(w/o enclosures)