



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 12, 2010

Ms. Laura Garza Jimenez  
Nueces County Attorney  
901 Leopard Street, Room 207  
Corpus Christi, Texas 78401-3680

OR2010-06790

Dear Ms. Jimenez:

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# 379354.

The Nueces County Sheriff's Department (the "department") received a request for information related to the activities, policies, and funding of Operation Stonegarden. You state some information will be released to the requestor. You claim that 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.

Initially, we note that the submitted information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-00769 (2010). In that decision, we ruled that portions of the information at issue were excepted from disclosure under section 552.108 of the Government Code. To the extent any portion of the submitted information was ruled upon in Open Records Letter No. 2010-00769, as we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, the department may continue to rely on that ruling as a previous determination and continue to treat any previously ruled upon information in accordance with that prior ruling.<sup>1</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type

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<sup>1</sup>As our determination is dispositive, we need not address your remaining argument against the disclosure of the information subject to the previous determination in Open Records Letter No. 2010-00769.

of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by the previous ruling, we will address your argument against disclosure.

Section 552.108(b)(1) of the Government Code 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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would interfere with law enforcement), 456 (1987) (release in advance of information regarding location of off-duty police officers would interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would interfere with law enforcement), 409 (1984) (information regarding certain burglaries protected if it exhibits pattern that reveals investigative techniques), 341 (1982) (release of certain information from Department of Public Safety would hamper departmental efforts to detect forgeries of drivers’ licenses), 252 (1980) (statutory predecessor was 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). The statutory predecessor to section 552.108(b)(1) was 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 state that the submitted information pertains to a security network and is used for sharing crime information and making operational decisions regarding border security. You assert that release of the submitted information will interfere with law enforcement by equipping criminals with guidance in how to tailor their behavior when encountering law enforcement. Further, you state that release of the information at issue will reveal law enforcement tactical strategies. You explain that release of the use and positioning of officers will compromise officer safety and affect the ability of the department to detect and deter criminal activity. Upon review of your arguments and the information at issue, we find the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we find the department has failed to meet its burden in explaining the applicability of section 552.108(b)(1) to any portion of the remaining information. *See id.* § 552.301(e)(1)(A) (governmental body has burden of proving that

requested information must be withheld under stated exception). Accordingly, we conclude the department may not withhold any portion of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no additional arguments against disclosure, the remaining information must be released.

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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 379354

Enc. Submitted documents

c: Requestor  
(w/o enclosures)