



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 16, 2010

Mr. Mark G. Daniel  
Law Offices of Evans, Daniel, Moore & Evans  
115 West Second Street, Suite 202  
Fort Worth, Texas 76102

OR2010- 10574

Dear Mr. Daniel:

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# 386951 (PIA Request 10-176).

The Watauga Police Department (the "department"), which you represent, received a request for a specified offense report. 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.

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 office has concluded that section 552.108(b)(1) 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 have provided an affidavit from the department chief which states, "releasing [the submitted] information will interfere with current and future detection and investigation of online solicitation because knowledge of the investigative techniques will enable offenders to adapt their criminal activity to avoid detection." Further, the affidavit states the screen names used by investigators are used in other active criminal investigations and may be used in future investigations. Based on the submitted affidavit and our review of the submitted documents, we find the department has demonstrated that the release of the information at issue would interfere with law enforcement. Therefore, we conclude the information we have marked may be withheld under section 552.108(b)(1). However, the department has failed to establish how release of the remaining information would interfere with law enforcement or crime prevention. Thus, no portion of the remaining information may be withheld under section 552.108(b)(1) of the Government Code. As no further exceptions to disclosure are raised, the remaining information must be released to the requestor.<sup>1</sup>

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

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<sup>1</sup>We note the remaining information contains the requestor's driver's license number and e-mail address. We note this requestor has a special right of access to this information, which would otherwise be confidential with regard to the general public. *See* Gov't Code § 552.023(a). We further note that Open Records Decision No. 684 (2009) authorizes a governmental body to redact a Texas driver's license number under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information from an individual other than one with a right of access under section 552.023, the department is authorized to withhold the Texas driver's license number and e-mail address at issue under section 552.130 without the necessity of requesting an attorney general decision.

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a long horizontal flourish extending to the right.

Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/jb

Ref: ID# 386951

Enc. Submitted documents

c: Requestor  
(w/o enclosures)