



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 13, 2011

~~Ms. Jennifer C. Cohen~~
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78765-4087

OR2011-00692

Dear Ms. Cohen:

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# 405920 (ORA# 10-2432).

The Texas Department of Public Safety (the "department") received a request for seven categories of information described in a specified contract regarding Operation Border Star and a copy of the emergency contract with Abrams Learning & Information Systems, Inc. You state that the requested contract has been released to the requestor. You claim that the remaining requested information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered your claimed exceptions and reviewed the submitted sample records.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108(b)(1) of the Government Code 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. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how

¹We assume the sample records submitted to this office are 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 those records contain substantially different types of information than that submitted to this office.

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) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under Gov't Code § 552.108), 341 (1982) (release of certain information from Texas Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 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). Generally known policies and techniques, however, may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under Gov't Code § 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known).

You explain that Operation Border Star is a comprehensive, multi-jurisdictional border security program designed to detect, arrest, and prosecute narcotic smugglers and human traffickers; interdict shipments of narcotics, weapons, and money passing through the border; and cripple support structures used by criminals operating along the border. You state that the responsive material contains extensive information regarding border operations and the detection and investigation of crimes, including tactical plans, equipment details, and critical assessments. You explain that release of the information at issue would reveal highly sensitive information that would help criminals avoid detection and prosecution as they cross the border into Texas. Thus, the department argues that release of the information at issue would greatly impede the efforts of law enforcement officers along the border. Based on your arguments and our review of the submitted information, we agree that release of this information will interfere with law enforcement and crime prevention. Accordingly, the department may withhold the submitted information under section 552.108(b)(1) of the Government Code.² The department has the discretion, however, to release all or part of this information that is not otherwise confidential by law.

²As our ruling is dispositive, we do not address your remaining argument.

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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/dls

Ref: ID# 405920

Enc. Submitted documents

c: Requestor
(w/o enclosures)