



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2011

Mr. James Mu
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-17004

Dear Mr. Mu:

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# 436319.

The Texas Department of Criminal Justice (the "department") received two requests for Security Memorandum 02.01 and information pertaining to the department's "pat-down" procedures from the same requestor. You state you have released some of the responsive information 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. We have also received and considered comments from 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 "[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[.]" *Id.* § 552.108(b)(1); *see City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov't Code § 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) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not

applicable to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted memorandum describes “exactly how a search is conducted at [department] correctional facilities, so if people with the intent to smuggle contraband into the correctional facilities have this information, they will know where to hide the contraband on or in their bodies, vehicles, or properties to evade detection.” Based on your representations, we have marked information the department may withhold under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated that release of any of the remaining information would interfere with law enforcement or crime prevention. Therefore, the department may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no further exceptions, 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, 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 436319

Enc. Submitted documents

c: Requestor
(w/o enclosures)