



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 11, 2012

Ms. Danielle R. Folsom  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2012-16296

Dear Ms. Folsom:

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# 468301 (GC No. 19913).

The Houston Police Department (the "department") received a request for seven categories of information related to the use of automated license plate recognition ("ALPR") technology. You state some of the requested information either has been or will be released. You claim other responsive information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted. We also have considered the comments we received from the requestor.<sup>1</sup>

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[.]" Gov't Code § 552.108(b)(1). 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

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<sup>1</sup>See Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

effectuate the laws of this State.” *See City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). A governmental body claiming section 552.108(b)(1) must explain how and why release of the information at issue would interfere with law enforcement and crime prevention. *See Open Records Decision No. 562 at 10 (1990)*. The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques, but was not applicable to generally known policies and procedures. *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); but see 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).*

The department seeks to withhold all or parts of the submitted information under section 552.108(b)(1). You have provided an affidavit from the department explaining the submitted information reveals details of how ALPR technology works; descriptions of the type, configuration, and specific capabilities of the department’s ALPR technology and its deployment on patrol vehicles; the geographic divisions of the city, the types of locales, and the shifts on and during which vehicles equipped with ALPR technology are used; tactical procedures used in connection with the technology; and other details of the capabilities and use of the technology. The affidavit states the release of such information would enable offenders to understand and anticipate investigative procedures, take countermeasures, avoid detection, and thereby hinder the department’s investigative and enforcement efforts. Based on the department’s affidavit and our review, we conclude the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. We conclude the department has not sufficiently demonstrated that the release of the remaining information at issue would interfere with law enforcement or crime prevention and may not withhold any of the remaining information under section 552.108(b)(1).

We note some of the remaining information may be protected by copyright law. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See Open Records Decision No. 180 at 3 (1977); see also Open Records Decision No. 109 (1975)*. A custodian of public records also must comply with copyright law, however, and is not required to furnish copies of records that are copyrighted. *See ORD 180 at 3*. A member of the public who wishes to make copies of copyrighted materials must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

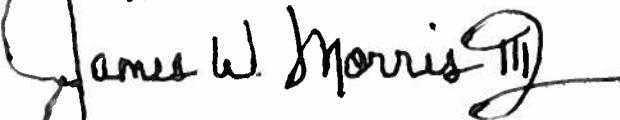
In summary, the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. The department must release the rest of the

submitted information, but any information protected by copyright must be released in compliance with copyright law.

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/bhf

Ref: ID# 468301

Enc: Submitted documents

c: Requestor  
(w/o enclosures)