



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 30, 2006

Mr. Jeff Lopez  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2006-03196

Dear Mr. Lopez:

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# 245704.

The Texas Department of Public Safety (the "department") received a request for 1) information pertaining to any computer searches made concerning two individuals and three license plate numbers from June 1, 2005 to the present;<sup>1</sup> and 2) "the name and address of any service that has access to Texas license plate/vehicle owner information; specifically including, any and all online services that provide information about a person's driver record/license or vehicle information." You state that the department does not maintain information responsive to the second category of requested information. We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed). You claim that the remaining requested information is excepted from disclosure under section 552.108 of the Government

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<sup>1</sup>The department informs us it sought and received clarification from the requestor regarding a portion of his request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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) 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), 252 (1980) (section 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). The statutory predecessor to section 552.108(b)(1) was not applicable, however, to generally known policies and procedures. *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 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 explain that requests for records pertaining to specific license plate numbers and individuals are made via the Texas Department of Enforcement Telecommunications System ("TLETS"), and that the department, as the agency responsible for maintaining TLETS, maintains logs of each inquiry made by other law enforcement agencies via this system. As such, you explain that the submitted information consists of a printout from an inquiry log. You further explain that these types of TLETS logs are created and maintained by the department for purposes of monitoring the use of the TLETS system and assuring that unauthorized individuals do not have access to confidential information available through

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<sup>2</sup> We assume that the "representative sample" of records submitted to this office is 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 that those records contain substantially different types of information than that submitted to this office.

TLETS, such as criminal histories, driver's license numbers and related information, firearms tracing, and information concerning stolen property and wanted persons. You assert that release of this internal information regarding inquiries will unduly complicate law enforcement efforts of the department, as well as those of other state law enforcement agencies that utilize the TLETS system, by exposing the department's and other such agencies' investigative techniques and procedures. Having considered your arguments and having reviewed the information at issue, we find that release of the submitted information would interfere with law enforcement. Accordingly, we determine that the department may withhold the submitted information under section 552.108 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Lisa V. Cubriel  
Assistant Attorney General  
Open Records Division

LVC/jh

Ref: ID# 245704

Enc: Submitted documents

c: Mr. Brian Klawinski  
5338A Darling Street  
Houston, Texas 77007  
(w/o enclosures)