



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2006

Mr. Peter G. Smith
City Attorney
City of Richardson
P. O. Box 831078
Richardson, Texas 75083-1078

OR2006-06953

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 253025.

The Richardson Police Department (the "department") received a request for four categories of information, including the vehicle identification numbers, license numbers, and make of all police motorcycles and unmarked police cars. You state that the department does not have information responsive to two of the request categories.¹ You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(b)(1) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal

¹We note that it is implicit in several provisions of the Act that the Act applies only to information already in existence. See Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. See *Economic Opportunities Dev. Corp. of San Antonio v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); see also Attorney General Opinion H-90 (1973); Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 416 at 5 (1984), 342 at 3 (1982), 87 (1975). A governmental body must only make a good faith effort to relate a request to information which it holds. See Open Records Decision No. 561 at 8 (1990).

use in matters relating to law enforcement or prosecution. . . if: (1) release of the internal record or notation would interfere with law enforcement or prosecution.” A governmental body that raises section 552.108 must reasonably explain how and why section 552.108 is applicable to the information. *See* Gov’t Code § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986).

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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded that this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed guidelines regarding police department’s use of force policy), 508 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution), 211 (1978) (information relating to undercover narcotics investigations), 143 (1977) (log revealing use of electronic eavesdropping equipment).

You argue that disclosing the requested vehicle information concerning undercover, unmarked police vehicles would interfere with law enforcement because it would “destroy the secrecy of these vehicles and the officers.” Upon review of the submitted records and your arguments, we agree that some of the submitted information consists of detailed police information, the release of which would interfere with law enforcement. Thus, the department may withhold all submitted information concerning unmarked, undercover police vehicles pursuant to section 552.108(b)(1). As for the remaining information, we find that you have failed to explain how its release “would interfere with law enforcement or prosecution.” Thus, none of the remaining information may be withheld on this basis.

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov’t Code § 552.130(a)(1), (2). You must withhold all of the submitted Texas vehicle identification numbers and license plate numbers under section 552.130. We have marked the information that must be withheld under this provision.

In summary, the department may withhold all submitted information concerning undercover, unmarked police vehicles under section 552.108 of the Government Code. The department must withhold the vehicle information we have marked under section 552.130 of the Government Code. The remaining submitted information must be released.

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).

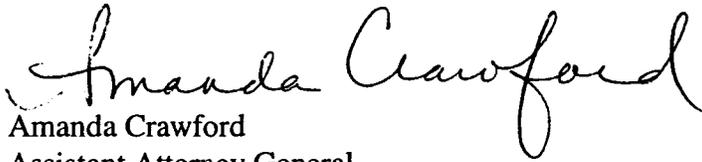
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink that reads "Amanda Crawford". The signature is written in a cursive, flowing style.

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/krl

Ref: ID# 253025

Enc. Submitted documents

c: Mr. Dallas Wayne Scott
638 Nottingham Drive
Richardson, Texas 75080
(w/o enclosures)