



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2007

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2007-05059

Dear Ms. Smith:

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# 279093.

The Texas Department of Public Safety (the "department") received a request for the identity of any person who made an inquiry regarding the requestor's criminal history during a specified time period. You state that you will release some information to the requestor, but 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.

Section 552.108(b)(1) of the Government Code excepts from required public 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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this section is applicable to the information that the governmental body seeks to withhold. *See id.* § 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). This office has concluded that section 552.108(b)(1) 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 inform us that the submitted information consists of a log of criminal history checks on the Texas Crime Information Center (the "TCIC") and National Crime Information Center (the "NCIC") systems made via the Texas Law Enforcement Telecommunications System ("TLETS"), which provides local law enforcement agencies with access to TCIC and NCIC information. You explain that TLETS logs are not accessible to users of the system and are created and maintained by the department for purposes of monitoring use of the system and preventing unauthorized access to confidential law enforcement information. Thus, you contend that release of the submitted information would interfere with law enforcement activities. Based on your arguments and the information you provided, we agree that the release of the submitted information would interfere with law enforcement. We therefore conclude that the submitted information is excepted from disclosure under section 552.108(b)(1) of the Government Code and may be withheld.

Although you request that this office issue a previous determination regarding this information, we decline to do so at this time. Thus, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us and must not be relied upon as a previous determination regarding any other records or any other circumstances.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/mcf

Ref: ID# 279093

Enc. Submitted documents

c: Ms. Elsa Gayle Gonzales
P.O. Box 95
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(w/o enclosures)