



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 16, 2009

Mr. Charles Wallace
Assistant City Attorney
P.O. Box 311747
New Braunfels, Texas 78130

OR2009-05034

Dear Mr. Wallace:

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# 340192.

The New Braunfels Police Department (the "department") received a request for the e-mail addresses of all department personnel. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of the requested information.¹

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." This section 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.*

¹We 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.

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). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. *See* Open Records Decision No. 409 at 2 (1984). To prevail on its claim that section 552.108(b)(1) exempts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. *See* Open Records Decision No. 562 at 10 (1990).

You analogize e-mail addresses to cellular phone numbers assigned to public officials and employees with specific law enforcement responsibilities. This office has previously concluded that the "law-enforcement exception" generally protects such cellular phone numbers from required public disclosure since disclosure of this information would interfere with law enforcement. *See* Open Records Decision No. 506 (1988). You state that the department uses law enforcement e-mail addresses for field communications and other functions traditionally accomplished via use of cellular phones. You also state that all department personnel are actively involved in the investigation and prosecution of crime. Accordingly, you claim that disclosure of these e-mail addresses could allow nefarious persons to interfere with law enforcement communications and thereby "greatly increase the cost and time involved in the operations of law enforcement per transaction." Furthermore, you state that "the improper use of e-mail addresses could result in furthering the commission of crimes and enhancing the violator's ability to successfully commit crimes without being detected" and "at worse, placing an officer in extreme danger." Upon review of the submitted information and your arguments, we conclude that you have established that release of the requested e-mail addresses would interfere with law enforcement or prosecution. Therefore, the department may withhold the requested information under section 552.108(b)(1) of the Government Code.

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan T. Mitchell". The signature is fluid and cursive, with the first name "Ryan" being more prominent than the last name "Mitchell".

Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

Ref: ID# 340192

Enc. Submitted documents

cc: Requestor
(w/o enclosures)