



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2009

Ms. Melanie Barton
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2009-07600

Dear Ms. Barton:

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# 344944.

The Dallas County Constable's Office, Precinct 4 (the "constable") received a request for twelve items regarding the constable's Special Response Team. You state you have released some responsive information. You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor, The Dallas Morning News (the "news"). See Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

The constable seeks to withhold copies of non-prosecution agreements that contain the names of confidential informants, and inventories of equipment, weapons, and ammunition

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.

maintained by the Special Response Team. Section 552.108(b)(1) of the Government Code provides:

(b) An 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 is excepted from [required public disclosure] if:

(1) 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) protects information the public disclosure of which would interfere with law enforcement and crime prevention. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). A governmental body claiming section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the requested agreements contain the names of confidential informants, and argue that release of these names “would place the informants at risk and damage the abilities of the deputies to gather important information regarding law enforcement.” You also assert that disclosing the inventories of equipment, weapons, and ammunition would “permit private citizens to know what kinds of equipment, weapons and ammunition the deputies carry and permit them to anticipate weaknesses in the Response Team, resulting in jeopardizing deputy safety and generally undermining their efforts to effectuate the laws of the state.” The news asserts that “[d]etails about the weapons and equipment used by tactical teams are available from a variety of public venues.” However, they acknowledge that the information available is incomplete, which is what necessitates their request. Based on the constable’s representations and our review, we find that release of the submitted information would interfere with law enforcement. We therefore conclude the information at issue may be withheld pursuant to section 552.108(b)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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 that reads "Karen Stack". The signature is written in a cursive, flowing style.

Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

Ref: ID# 344944

Enc. Submitted documents

c: Requestor
(w/o enclosures)