



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 12, 2009

Ms. Cary Grace  
Assistant City Attorney  
City of Austin, Law Department  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2009-16103

Dear Ms. Grace:

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# 361198.

The City of Austin (the "city") received a request for 11 categories of information relating to an undercover operation conducted by the city's police department (the "department"). You state the city will release most of the responsive information. You claim 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.

Initially, we note that you claim that portions of the submitted information, which are marked in yellow and pertain to a separate department operation, are not responsive to the instant request. The city does not need to release non-responsive information in response to this request, and this ruling will not address that information.

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 departments, 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 department believes release of the information it has marked in pencil would interfere with law enforcement. You explain that the marked information consists of department strategies and techniques used during an investigation of an illegal transportation service. You state that release of the information at issue would make it difficult for the department to conduct similar operations in the future because those seeking to avoid police detection would be informed of how the department investigates this type of criminal activity. You further state that advanced knowledge of the submitted techniques by such individuals would jeopardize officer safety. Based on your representations and our review of the submitted information, we conclude the city has demonstrated that the release of some of the information at issue would interfere with law enforcement and crime prevention. Thus, we conclude the city may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we conclude the city has not shown how 552.108(b)(1) is applicable to the remaining information it seeks to withhold. Therefore, the city may not withhold any of the remaining information on this basis. As you raise no other exceptions to disclosure, the remaining information must be released.

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](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, toll free, at (888) 672-6787.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)