



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2009

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2009-16219

Dear Ms. Cohen:

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# 361420 (OR 09-1719).

The Texas Department of Public Safety (the "department") received a request for information regarding inquiries into the criminal history record information of the requestor and four other named individuals through the Texas Crime Information Center ("TCIC") or the National Crime Information Center ("NCIC") originating from the City of Houston Police Department and all inquiries made by a named officer of the City of Houston Police Department. You claim 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 information. We have also received and considered comments submitted by the requestor. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released).

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[.]" *Id.* § 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 requested information consists of logs of criminal history checks made via the Texas Law Enforcement Telecommunications System ("TLETS"), which provides local access to information maintained by the TCIC and the NCIC. You explain that the TLETS logs are created and maintained by the department for purposes of monitoring use of the system and assuring that unauthorized individuals do not have access to confidential law enforcement information available through TLETS. You assert that the release of TLETS logs "could easily give a criminal sufficient warning to evade detection and/or prosecution." You state that "a records check might be run well before the time an individual is officially or openly identified as a suspect in a case and before the individual has even been contacted by police." You contend that "an individual engaged in illegal activity who can find out whether any law enforcement agency has run checks on him/her ... can obviously gain valuable knowledge in terms of concealing his/her activities from law enforcement scrutiny." Thus, you assert that release of the requested information would interfere with law enforcement activities. Based on your arguments and the information that you have provided, we agree that release of the requested information would interfere with law enforcement. We therefore conclude that the department may withhold the requested information under section 552.108(b)(1) of the Government Code.

You also ask this office to issue a previous determination allowing the department to withhold logs of criminal history checks made via the TLETS under section 552.108(b)(1) of the Government Code without seeking a ruling from this office. After due consideration, we have decided to grant your request. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that logs of criminal history checks made via the TLETS are excepted from disclosure under section 552.108(b)(1). *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001). The department may consider this ruling a previous determination for such information for as long as the elements of law, fact, and circumstances on which this ruling is based do not change so as to no longer support our conclusion. *See* Gov't Code § 552.301(a), (f); *see also* ORD 673 at 7.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 361420

Enc. Submitted documents

cc: Requestor
(w/o enclosures)