



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 3, 2010

Ms. Melanie Barton
Assistant District Attorney
Dallas County District Attorney's Office, Civil Division
Administration Building, 5th Floor
411 Elm Street, Suite 500
Dallas, Texas 75202-3384

OR2010-03141

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# 371661.

The Dallas County Criminal District Attorney's Office (the "district attorney") received a request for all memos, notes, e-mails, letters, reports, meeting minutes, briefings, project files, and any other internal or external correspondence during a specified time among specified individuals related to the release of illegal aliens to Immigration and Customs Enforcement prior to adjudication. You 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.

Initially, we note that the requestor has specifically excluded "information related to any pending cases" from his request for information. You state that a portion of the submitted information pertains to active warrants, ongoing investigations, and criminals you are attempting to apprehend. This information, which pertains to pending cases is not responsive to the instant request. We have marked the information that is not responsive to this request, and this marked information need not be released. Moreover, we do not address such information in this ruling.

You argue that the submitted information is excepted from disclosure under section 552.108(b)(1) of the Government Code. Section 552.108(b)(1) 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). Section 552.108(b)(1) protects internal law enforcement and prosecution records, the release of which would interfere with ongoing law enforcement and prosecution efforts in general. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

This office has on numerous occasions concluded that section 552.108 excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (holding that predecessor to section 552.108 excepts detailed guidelines regarding a police department's use of force policy), 508 (1988) (holding that release of dates of prison transfer could impair security), 413 (1984) (holding that predecessor to section 552.108 excepts sketch showing security measures for execution), 252 (1980) (section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORD 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

Based on your representations and our review, we agree the responsive information constitutes an internal record, the release of which would interfere with law enforcement. Thus, you may withhold the responsive information under section 552.108(b)(1).

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lauren J. Holmsley". The signature is written in a cursive style with a large initial 'L'.

Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

Ref: ID# 371661

Enc. Submitted documents

c: Requestor
(w/o enclosures)