



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 19, 2011

Ms. Patricia Fleming
Assistant General Counsel
TDCJ-Office of the General Council
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-00897

Dear Ms. Fleming:

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# 406624.

The Texas Department of Criminal Justice (the "department") received a request for six categories of information pertaining to juveniles held by the department, including policy manuals applicable to juveniles. You state the department has made or will make available some of the requested information to the requestor, but claim some of 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.

Section 552.108(b)(1) 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. 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). To claim this aspect of section 552.108 protection, however, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common-law rules, and constitutional limitations on use of force are not protected under section 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known with law enforcement and crime prevention). 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. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

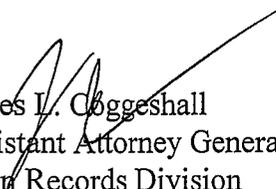
The information at issue pertains to the duties of a Youthful Offender Program Security Officer. You assert release of the information at issue would expose vulnerabilities in the department's security procedures. You explain release of the information "can be exploited by offenders in order to evade detection of contraband and thereby undermine the security of [the department's] units and threaten public safety." After reviewing your arguments and the submitted information, we agree the public release of some of this information would interfere with law enforcement. Accordingly, you may withhold from disclosure the information we have marked under section 552.108(b)(1). Although you assert release of the remaining information at issue, which pertains to the reporting of infractions and disciplinary reports, would allow officers to be bribed or intimidated, we conclude you have not established release of this information would interfere with law enforcement or crime prevention. Therefore, you may not withhold any of the remaining information under section 552.108(b)(1). Instead, you must release the remaining information to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 406624

Enc. Submitted documents

c: Requestor
(w/o enclosures)