



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2012

Ms. Tamma Willis
Records Division
McLennan County Sheriff's Office
901 Washington Avenue
Waco, Texas 76701

OR2012-10764

Dear Ms. Willis:

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# 459403.

The McLennan County Sheriff's Office (the "sheriff's office") received a request for its policies and procedures manual. You state some of the requested information either has been or will be released. You also state some of the remaining responsive information is the subject of previous open records letter rulings. You claim other responsive information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the information you submitted.

You state some of the information submitted as Exhibit B and all of the information submitted as Exhibit C were the subject of previous requests by the sheriff's office for rulings, in response to which this office issued Open Records Letter Nos. 2005-11600 (2005) and 2011-09794 (2001). In the previous rulings, we concluded the sheriff's office may withhold some of the information in Exhibits B and C under section 552.108(b)(1) of the Government Code. You do not indicate there has been any change in the law, facts, and circumstances on which the previous rulings are based. We therefore conclude the sheriff's office may continue to rely on Open Records Letter Nos. 2005-11600 and 2011-09794 as previous determinations and withhold or release the submitted information they encompass

in accordance with those rulings.¹ See Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

Next, we address your claim under section 552.108 of the Government Code for the remaining information at issue. Section 552.108(b)(1) excepts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor . . . 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[.]” Gov't Code § 552.108(b)(1); see *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (Gov't Code § 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). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques but was not applicable to generally known policies and procedures. See Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution); compare Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You claim section 552.108(b)(1) for the remaining information in Exhibit B and all of the information submitted as Exhibit E. You argue release of the information at issue would interfere with law enforcement. You contend release of the remaining information in Exhibit B would place a subject at an advantage in confrontations with officers and increase the possibility of a subject evading arrest or injuring officers or others. You contend release of the information in Exhibit E would disclose security measures and counter-measures. Based on your representations and our review, we have marked the information in Exhibits B and E the sheriff's office may withhold under section 552.108(b)(1) of the Government Code. We find you have not demonstrated release of the remaining information at issue would interfere with law enforcement or crime prevention. We therefore conclude the sheriff's office may not withhold any of the remaining information under section 552.108(b)(1).

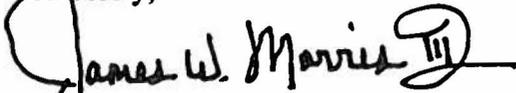
In summary, the sheriff's office (1) may continue to rely on Open Records Letter Nos. 2005-11600 and 2011-09794 as previous determinations and withhold or release the submitted information they encompass in accordance with those rulings and (2) may withhold the information we have marked in Exhibits B and E under section 552.108(b)(1) of the Government Code. The rest of the information in Exhibits B and E must be released.

¹As we are able to make this determination, we need not address your other arguments against disclosure of the submitted information encompassed by the previous rulings.

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 "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 459403

Enc: Submitted documents

c: Requestor
(w/o enclosures)