



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 31, 2013

Mr. Steve Smeltzer
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2013-01781

Dear Mr. Smeltzer:

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# 478097.

The Texas Department of Criminal Justice (the "department") received a request for the shift rosters for October, 2012; the post orders for central control from October 20, 2012, to October 31, 2012; and two specified key logs from October 20, 2012, to October 31, 2012. 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 the requested shift rosters are subject to a previous determination issued by this office in Open Records Letter No. 2004-6370 (2004). In that ruling, this office ruled the department may withhold shift rosters for its prison units from public disclosure for security reasons under section 552.108(b)(1) of the Government Code. Therefore, the department may withhold the requested shift rosters under section 552.108(b)(1) pursuant to the previous determination issued in Open Records Letter No. 2004-6370. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)). However, we will consider the submitted argument for the information not subject to the previous determination.

Next, we note the key log entries dated before October 20, 2012, and after October 31, 2012, are not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

Section 552.108(b)(1) of the Government Code exempts 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[.]” Gov’t Code § 552.108(b)(1); see *City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (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. See, e.g., 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). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. See, e.g., 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).

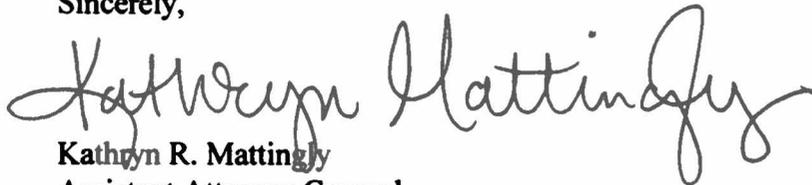
You state the submitted key logs “indicate the places, times and dates [prison] keys were issued out.” You contend release of this information could dangerously compromise prison security because it could “empower inmates . . . to detect and exploit . . . any mistakes or weaknesses in [your] system.” You also explain the submitted post orders “outline security procedures” that are used to “prevent offenders or the public from gaining unauthorized passage through the unit.” You contend release of this information could “be useful to inmates in their future attempts to circumvent the security of the prison unit.” Based on your representations and our review, we agree the release of the responsive information would interfere with law enforcement or crime prevention. Accordingly, the department may withhold the submitted responsive information pursuant to section 552.108(b)(1) of the Government Code.

In summary, the department may withhold the requested shift rosters under section 552.108(b)(1) pursuant to the previous determination issued in Open Records Letter No. 2004-6370. The department may withhold the submitted responsive information pursuant to section 552.108(b)(1) of the Government Code.

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 cursive script that reads "Kathryn R. Mattingly". The signature is written in black ink and is positioned above the typed name.

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 478097

Enc. Submitted documents

c: Requestor
(w/o enclosures)