



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2013

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

OR2013-02458

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# 478802.

The Texas Department of Criminal Justice (the "department") received a request for specified logs from a specified date. You state some of the requested information has been or will be released to the requestor. 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 some of the submitted information, which we have marked, is not responsive to the request because it does not pertain to the specified date. This decision does not address the public availability of the non-responsive information and that information need not be released in response to the present request.

Section 552.108(b) of the Government Code provides in pertinent part:

(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)(1). Section 552.108(b)(1) 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.). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). This office has concluded that section 552.108(b) 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) (release of detailed use of force guidelines would unduly interfere with law enforcement), 508 (1988) (holding that release of dates of prison transfer could impair security), 413 (1984) (holding that section 52.108 excepts sketch showing security measures for execution).

You inform us the submitted Use of Force Equipment Sign-Out Log, Carry-on-Person Chemical Agents Issuance Log, and Key Issue Log report in fairly microscopic detail the use of force equipment, chemical weapons, and keys issued to officers manning specific pickets in the Hamilton Unit. You also inform us the submitted Hamilton Unit Sign-in Log effectively shows where employees are assigned and what posts are and are not manned. You contend that release of the responsive information could dangerously compromise prison security because it could empower inmates to detect and exploit any mistakes or weaknesses in the department's system. Based on your representations and our review, we agree the release of the information at issue would interfere with law enforcement or crime prevention. Accordingly, the department may withhold the 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 black ink, appearing to read 'KLC', with a long horizontal stroke extending to the right.

Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 478802

Enc. Submitted documents

c: Requestor
(w/o enclosures)