



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2013

Mr. Wm. Keith Davis
For Tom Green County
Hay, Wittenburg, Davis, Caldwell & Bale, L.L.P.
P.O. Box 271
San Angelo, Texas 76902-0271

OR2013-17450

Dear Mr. Davis:

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# 501611 (File No. 5642).

The Tom Green County Sheriff's Department (the "department"), which you represent, received a request for specified policies pertaining to the department and the Tom Green county jail.¹ You state you have released most of the requested information 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.

Section 552.108(b)(1) of the Government Code 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[.]" 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." *See City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). A governmental body claiming section 552.108(b)(1) must explain how and why release of the information at issue would interfere with law enforcement and crime prevention. *See Open Records Decision No. 562 at 10 (1990).*

¹You inform this office that the requestor has modified the request to exclude specified policies. Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

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, 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); *but see* 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 seek to withhold the submitted information under section 552.108(b)(1). You state the information at issue relates to the department's policies regarding use of chemical agents, electronic control devices, rifles and shotguns, covert electronic recording devices, and roadblocks, as well as the department's policies regarding response to alarms, child abuse investigation procedures, and covert and undercover investigation procedures. You assert release of the information at issue would provide an advantage to criminals and endanger police officers and the public. Based on the your representations and our review, we conclude the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we find the department has not sufficiently demonstrated the release of the remaining information would interfere with law enforcement or crime prevention and may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no additional exceptions to disclosure, the department must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/ag

Ref: ID# 501611

Enc. Submitted documents

c: Requestor
(w/o enclosures)