



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 9, 2015

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2015-04513

Dear Ms. Cost:

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# 557080 (DPS PIR # 14-5359).

The Texas Department of Public Safety (the "department") received a request for four categories of information, to include 1) all daily seizure reports by the Border Security Operations Center ("BSOC") over a specified time period; 2) all specified news and analysis reports from BSOC over a specified time period; 3) all requests for special project intelligence reports received by BSOC over a specified time period; and 4) all special projects intelligence report received by BSOC over a specified time period. You state the department released information responsive to the second category of information to the requestor. You state the department does not have information responsive to categories three and four of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered the exceptions 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[.]" Gov't Code § 552.108(b)(1). Section 552.108(b)(1) is intended to protect "information which, if released, would permit

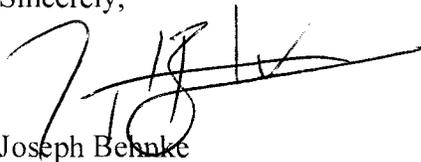
¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

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 subsection 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). You state the submitted records contain information concerning “ongoing operations by the [d]epartment and other law enforcement agencies at the Texas border to detect, prevent, and respond to terroristic threats and other criminal activities.” You further state the information at issue includes “details of staffing and equipment utilized for these operations and strategies employed in these operations.” You assert release of the information at issue “would provide wrong-doers, drug traffickers, terrorists, and other criminals with invaluable information concerning the law enforcement efforts at the Texas border, allowing these groups to identify vulnerabilities and avoid detection.” Based upon your representations and our review, we conclude release of the submitted information would interfere with law enforcement. Accordingly, the department may withhold the submitted information under section 552.108(b)(1) of the Government Code.²

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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 557080

Enc. Submitted documents

c: Requestor
(w/o enclosures)