



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2015

Mr. Gerald A. Calderon
Assistant Criminal District Attorney
Civil Section
County of Bexar
101 West Nueva Street, 7th Floor
San Antonio, Texas 78205

OR2015-11631

Dear Mr. Calderon:

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# 566898.

The Bexar County Sheriff's Office (the "sheriff's office") received a request for (1) information pertaining to facility incident report number 111914-07, to include all video and still photographs and all inmate disciplinary reports; (2) information pertaining to offense report number 2014-BCSO-48411, to include the first page of the offense report, all video and still photographs, and booking slips for all charged persons; and (3) a diagram of jail annex unit 6D. 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 you have only submitted the requested videos, still photograph, and jail annex diagram. To the extent any additional responsive information existed when the present request was received, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, then the sheriff's office must release it at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108(b) 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 (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]” Gov’t Code § 552.108(b)(1). This section 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.). This office has concluded this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 at 3-4 (1989) (detailed guidelines regarding police department’s use of force policy), 508 at 3-4 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). However, to claim this aspect of section 552.108 protection a governmental body must meet its burden of explaining how and why release of the information at issue would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (former section 552.108 does not protect Penal Code provisions, common-law rules, and constitutional limitations on use of force), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques submitted were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You explain the release of the information at issue “would reveal how many and which officers are on duty at specific times, thus making the jail vulnerable to escape attempts, facilitating the smuggling of contraband, and generally jeopardizing security” of the jail. Thus, you contend the release of the submitted information would interfere with law enforcement and jeopardize officer safety. Upon review, we find the sheriff’s office has demonstrated the release of the submitted videos and jail annex diagram would interfere with law enforcement. Therefore, the sheriff’s office may withhold that information under section 552.108(b)(1) of the Government Code. However, we find you have failed to demonstrate how release of the remaining information would interfere with law enforcement and crime prevention. Thus, the sheriff’s office may not withhold the remaining information under section 552.108(b)(1) of the Government Code. As you raise no further exceptions to disclosure, the sheriff’s office 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 566898

Enc. Submitted documents

c: Requestor
(w/o enclosures)