



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 25, 2015

Mr. Caleb Thornton  
Assistant County Attorney  
County of Montgomery  
501 North Thompson, Suite 300  
Conroe, Texas 77301

OR2015-12589

Dear Mr. Thornton:

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# 568665 (ORR# 15PIA222).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for "jail policy/procedure/regulations, and/or training manuals/handbooks for the Montgomery County Jail[.]" The sheriff's office indicates it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

Section 552.108(b) 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 (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

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<sup>1</sup>Although the sheriff's office also raises section 552.152 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the sheriff's office no longer asserts this exception. See Gov't Code §§ 552.301, .302.

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).

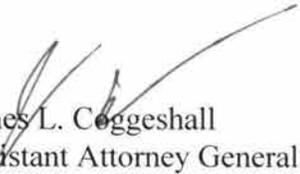
You inform us the submitted information consists of the policy and procedural manual and FTO manual related to the county jail. You assert this information extensively details security measures and operations for the jail. You also argue release of these documents “could interfere with law enforcement and could help private citizens to anticipate weaknesses, jeopardize officer safety, and generally undermine police efforts to enforce the law.” Upon review, we find you have failed to establish release of the submitted information in its entirety would interfere with law enforcement. Therefore, the sheriff’s office may not withhold the submitted information in its entirety under section 552.108(b)(1). Nevertheless, we find you have established the portions of the submitted manuals you have listed in Exhibit C of your briefing would interfere with law enforcement. Therefore, the sheriff’s office may withhold the portions of the submitted manuals that you have listed in Exhibit C under section 552.108(b)(1) of the Government Code. 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 568665

Enc. Submitted documents

c: Requestor  
(w/o enclosures)