



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2015

Ms. Sarah Stallberg
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 300
Conroe, Texas 77301

OR2015-19680

Dear Ms. Stallberg:

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# 580207 (PIR No. 15PIA404).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a copy of the employee roster for the sheriff's office, including the employee's name, position, telephone extension, and e-mail address. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You inform us some of the submitted information relates to undercover police officers. You seek to withhold the identifying information of undercover officers within the submitted information. You represent the release of the undercover officers' identities would subject the officers to a substantial threat of physical harm. Based

on your representations and our review, we find you have demonstrated the release of the officer position information would subject the officers at issue to a substantial threat of harm. Thus, the sheriff's office must withhold the officer position information in the submitted roster under section 552.152 of the Government Code.¹ However, we find you have failed to demonstrate release of the remaining information would subject an employee or officer to a substantial risk of physical harm. Accordingly, the sheriff's office may not withhold any of the remaining information under section 552.152 of the Government Code.

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). Upon review, we find the sheriff’s office has failed to demonstrate release of the remaining information at issue would interfere with law enforcement. Thus, no portion of the remaining information may be withheld under section 552.108(b)(1).

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

In summary, the sheriff's office must withhold the officer position information in the submitted roster under section 552.152 of the Government Code. The remaining information must be released.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 580207

Enc. Submitted documents

c: Requestor
(w/o enclosures)