



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2015

Mr. Matthew Grove
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2015-21340

Dear Mr. Grove:

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# 582690.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for the portion of the Fort Bend County Jail Policy and Procedure Manual pertaining to the procedures for processing an arrestee and searching inmates at the Fort Bend County Jail (the "jail") in effect during an specified time. 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) 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) 252 (1980) (section 552.108 of the Government Code designed to protect investigative techniques and procedures used in law enforcement). However, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, ORDs 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 (governmental body did not meet burden because 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. Instead, 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) (construing statutory predecessor). 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 state release of the submitted information would interfere with law enforcement because "offenders would have detailed information as to how they would be searched for prohibited items prior to booking into the [jail]." You further state release would endanger and place jail employees at a disadvantage because offenders would know how to hide prohibited items to be smuggled into the jail. Upon review, we find the release of some of the submitted information would interfere with law enforcement. Therefore, the sheriff's office may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we find you have failed to demonstrate how the remaining information would interfere with law enforcement or crime prevention. Consequently, the sheriff's office may not withhold the remaining information under section 552.108(b)(1). 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,

A handwritten signature in cursive script that reads "Nicole Thomas".

Nicole Thomas
Assistant Attorney General
Open Records Division

NT/eb

Ref: ID# 582690

Enc. Submitted documents

c: Requestor
(w/o enclosures)