



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 13, 2016

Mr. Nick Lealos  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2016-13366

Dear Mr. Lealos:

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# 617379 (ORR# 16-2334).

The Texas Department of Public Safety (the "department") received a request for records indicating when a named individual entered or exited any buildings in the Capitol Complex during a specified time period. 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 exception you claim and reviewed the submitted information.

Initially, you state most of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-09320 (2016). In that ruling, we determined the department may withhold the submitted information under section 552.108(b)(1) of the Government Code. You state there has been no change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department may rely on Open Records Letter No. 2016-09320 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 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).

The department explains revealing the submitted information would provide wrong-doers, terrorists, or criminals with invaluable information concerning the named individual and her staff. Additionally, you state release of the information would elevate the risk to the named individual by identifying movement patterns, perceived or otherwise, and other sensitive information. Upon review, we find the department has demonstrated release of the submitted information would interfere with law enforcement. Thus, the department may withhold the remaining submitted information under section 552.108(b)(1) of the Government Code.<sup>1</sup>

In summary, the department may rely on Open Records Letter No. 2016-09320 as a previous determination and withhold the identical information in accordance with that ruling. The department may withhold the remaining submitted information under section 552.108(b)(1) of the Government Code.

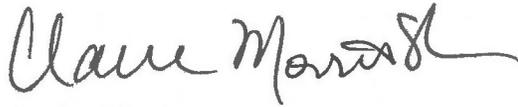
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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 617379

Enc. Submitted documents

c: Requestor  
(w/o enclosures)