



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 7, 2016

Mr. Andrew E. Holway  
Assistant Criminal District Attorney  
Civil Section  
County of Bexar  
101 West Nueva Street, 7<sup>th</sup> Floor  
San Antonio, Texas 78205-3030

OR2016-15349

Dear Mr. Holway:

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# 617663 (BCDA File No. 5150).

The Bexar County Sheriff's Office (the "sheriff's office") received a request for specified categories of information pertaining to each vehicle a peace officer employed by, acting on behalf of, in cooperation with, or co-located with the sheriff's office drove or rode in during the course of performing his or her duties during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1175, 552.130, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not pertain to the specified time period. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's office is not required to release such information in response to this request.

Next, we note you have only submitted responsive information pertaining to some of the specified categories of information. Thus, we find the responsive information is not representative of the other categories of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the type of information you have submitted for our review. This ruling does not authorize the sheriff's office to withhold any information that is substantially different from the type of information you submitted to this office. *See* Gov't Code § 552.302. Accordingly, to the extent any information responsive to the remainder of the request for information existed in the possession of the

sheriff's office when it received the request, we assume the sheriff's office has released that information to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130(a). Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.<sup>1</sup> However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the sheriff's office may not withhold any of the remaining responsive information at issue under section 552.130 of the Government Code.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. *Id.* § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) 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." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You assert the remaining responsive information is subject to section 552.108(b)(1). You state the submitted information "shows the patterns of deployment and methods of response,

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

response time, reaction, and location of every [sheriff's office] vehicle and its associated officers." You contend release of the submitted information would "assist an individual planning a crime in successfully carrying it out, or assist an individual who has committed a crime in avoiding detection or prosecution[.]" You further state "[r]eleasing such information would also expose ongoing surveillance operations and identify undercover officers and vehicles." Upon review, we find the release of some of the submitted information would interfere with law enforcement. Accordingly, the sheriff's office may withhold the information we have marked under section 552.108(b)(1) of the Government Code.<sup>2</sup> Further, to the extent the remaining responsive information identifies undercover officers or vehicles, the sheriff's office may also withhold such information under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated any of the remaining responsive information would interfere with law enforcement or crime prevention. Accordingly, the sheriff's office may not withhold any of the remaining responsive information under section 552.108(b)(1) of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). As previously noted, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Upon review, we find you have not demonstrated the applicability of this provision to the remaining responsive information. Accordingly, the sheriff's office may not withhold any of the remaining responsive information under section 552.108(a)(1) of the Government Code.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.176(a) of the Government Code provides as follows:

Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

(1) relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;

(2) relates to a tactical plan of the provider; or

(3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider[.]

*Id.* § 418.176(a). Section 418.181 of the Government Code provides as follows:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

*Id.* § 418.181. The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

Upon review, we find you have failed to demonstrate the remaining responsive information is confidential under section 418.176 or section 418.181 of the Government Code. Therefore, the sheriff's office may not withhold any of the remaining responsive information under section 552.101 of the Government Code in conjunction with sections 418.176 or section 418.181 of the Government Code.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See id.* § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure." *Id.* § 552.1175(a)(1). Upon review, we find the remaining responsive information is not subject to section 552.1175 of the Government Code and it may not be withheld on that basis.

You seek to withhold the remaining responsive information under section 552.152 of the Government Code. Section 552.152 provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required

public disclosure] 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.

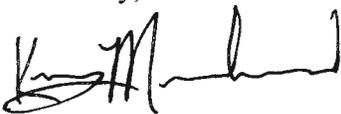
*Id.* § 552.152. Upon review, we find you have not demonstrated the release of any of the remaining responsive information would subject an employee of the sheriff's office to a substantial threat of physical harm. Thus, the sheriff's office may not withhold any of the remaining responsive information under section 552.152 of the Government Code.

In summary, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The sheriff's office may withhold the information we have marked under section 552.108(b)(1) of the Government Code. To the extent the remaining responsive information identifies undercover officers or vehicles, the sheriff's office may also withhold such information under section 552.108(b)(1) of the Government Code. The sheriff's office must release the remaining responsive 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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/som

Ref: ID# 617663

Enc. Submitted documents

c: Requestor  
(w/o enclosures)