



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2016

Ms. Patricia M. Crawson
Chief Warrant Officer 2
Public Information Officer
Texas Military Forces
P.O. Box 5218
Austin, Texas 78763-5218

OR2016-11527

Dear Ms. Crawson:

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# 611024.

The Texas Military Forces ("TMF") received two requests for information from the same requestor for six categories of information pertaining to two specified TMF operations. You indicate you will release some of the information. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Additionally, you state release of some of the submitted information may implicate the interests of the Texas Department of Public Safety ("DPS"). Accordingly, you state you notified DPS of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released). We have received comments from DPS and the requestor. We have reviewed the submitted arguments and the submitted representative sample of information.¹

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Initially, we note the requestor states she has agreed to exclude certain columns of information from the scope of her requests. Accordingly, these types of information are not responsive to the present requests. This ruling does not address the public availability of non-responsive information, and the TMF need not release it in response to these requests.

Section 552.108(b)(1) 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 . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]” *Id.* § 552.108(b)(1); *see City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov’t Code § 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

DPS contends the submitted information details “ongoing operations by the [d]epartment and other law enforcement agencies at the Texas border to protect, prevent, and respond to terroristic threats and other criminal activities.” DPS states revealing the submitted information “would provide wrong-doers, drug traffickers, terrorists, and other criminals with invaluable information concerning the efforts of law enforcement at the Texas border, allowing these groups to identify vulnerabilities and avoid detection.” Upon review, we find DPS has demonstrated release of the submitted information would interfere with law enforcement. Thus, TMF may withhold the submitted information under section 552.108(b)(1) of the Government Code on behalf of DPS.²

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/>

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

[url_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 black ink, appearing to read 'JB' followed by a horizontal line.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 611024

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)