



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 3, 2018

Ms. Molly Cost  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2018-00197

Dear Ms. Cost:

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# 690142 (PIR# 17-7513).

The Texas Department of Public Safety (the "department") received a request for all records sent to a specified department e-mail address during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.139 of the Government Code. We have also received comments from U.S. Customs and Border Protection ("CBP") objecting to release of the submitted information. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

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 (Tex. 1977)). 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, 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.*, 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 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

The department states some of the submitted information, if released, would interfere with law enforcement or prosecution of crime. The department explains the information discusses ongoing operations by the department and other law enforcement agencies at the border between Texas and Mexico and the surrounding areas to detect, prevent, and respond to criminal activities. The department argues release of the information at issue would provide wrong-doers, drug traffickers, terrorists, and other criminals with invaluable information concerning the law enforcement efforts at the border and surrounding areas, allowing these groups to identify vulnerabilities and avoid detection. The department further argues release of the information would endanger the safety of law enforcement personnel and the public in the areas at issue. Based on these representations and our review, we agree the release of the information would interfere with law enforcement. Accordingly, the department may withhold the information you marked under section 552.108(b)(1) of the Government Code.<sup>1</sup>

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

Gov't Code § 552.139(a). Section 2059.055 of the Government Code provides in part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

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

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

*Id.* § 2059.055(b). The department states the remaining information it marked “consists of information about access to the [d]epartment’s email systems by authorized users and contains access codes for utilizing these systems.” Based on these representations and our review of the information, we find the department has demonstrated the information at issue relates to computer network security, restricted information under section 2059.055, or to the design, operation, or defense of the computer network as contemplated in section 552.139(a). Accordingly, the department must withhold the information it marked under section 552.139(a) of the Government Code.

In summary, the department may withhold the information it marked under section 552.108(b)(1) of the Government Code. The department must withhold the information it marked under section 552.139(a) of the Government Code.

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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/gw

Ref: ID# 690142

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)