



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 21, 2018

Mr. Wm. Keith Davis  
Counsel for the Tom Green County Sheriff's Office  
Hay, Wittenburg, Davis, Caldwell & Bale, L.L.P.  
P.O. Box 271  
San Angelo, Texas 76902-0271

OR2018-04046

Dear Mr. Davis:

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# 696452 (Reference No. 92-170).

The Tom Green County Sheriff's Office (the "sheriff's office"), which you represent, received a request for all policies and procedures related to incarceration of individuals at the Tom Green County Jail (the "county jail") in effect on a specified date. You state the sheriff's office is releasing some information. You claim some of 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)(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 (Tex. 1977). 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.*, 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 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 the information you marked relates to county jail policies and procedures regarding searches, contraband; prisoner escort; riot response situations; prisoner escapes; hostage situations; use of force; use of chemical agents; use of lethal and non-lethal munitions; cell movement; and electronic control devices. Further, you assert release of the information at issue would give an advantage to criminals and prisoners over law enforcement personnel and endanger officers and the public. Based on your representations and our review, we agree the release of most of the information you marked would interfere with law enforcement. However, we find you have failed to demonstrate portions of the information at issue, which we marked for release, would interfere with law enforcement or crime prevention. Therefore, the sheriff’s office may not withhold any of the information we marked under section 552.108(b)(1) of the Government Code. Accordingly, with the exception of the information we marked for release, the sheriff’s office may withhold the information you marked under section 552.108(b)(1) of the Government Code. 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](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 black ink, appearing to read 'KH', is written over the word 'Sincerely,'.

Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 696452

Enc. Submitted documents

c: Requestor  
(w/o enclosures)