



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 24, 2019

Mr. Robert J. Davis  
Counsel for Colin County  
Mathews, Shiels, Knott, Eden, Davis & Beanland, L.L.P.  
8131 LBJ Freeway, Suite 700  
Dallas, Texas 75251

OR2019-13868

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# 767116 (Ref No. 1600/69521).

The Collin County Sheriff's Office (the "sheriff's office"), which you represent, received a request for information pertaining to the use of unmanned aerial vehicles by the sheriff's office during a specified time period, including a specified report. You state the requested report does not exist.<sup>1</sup> You claim 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. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.108 of the Government Code provides, in part:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(b) An 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 is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Subsection 552.108(a)(1) protects information if its release would interfere with a particular pending criminal investigation or prosecution. Subsection 552.108(b)(1) protects internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

The sheriff's office states the submitted information should be withheld as "release of the information would interfere with detection, investigation, or prosecution of crime." The sheriff's office does not inform us the information at issue pertains to a specific ongoing criminal investigation or prosecution. Thus, the sheriff's office has failed to demonstrate the applicability of section 552.108(a)(1) of the Government Code to the submitted information and the sheriff's office may not withhold any of it on that basis.

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).

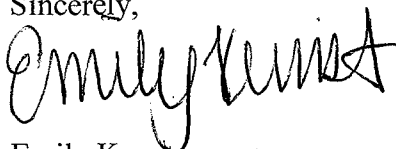
The sheriff's office states the submitted information, if released, would interfere with law enforcement or prosecution of crime. The sheriff's office states the release of the information at issue would "allow criminal suspects to have knowledge of the law

enforcement tools which are available to the [s]heriff's [o]ffice, and if so inclined, develop ways to attempt to thwart the use and/or effectiveness of the [d]rone]." Further, the sheriff's office states release of such information would allow suspects to "know specifically what type of [d]rone the [sheriff's office] has . . . what the [d]rone looks like, and information about the effectiveness of a [d]rone [p]rogram by other [s]heriff's office[s], thereby allowing these person(s) information which could be used to negate or impede the used and effectiveness of a [d]rone[.]" Based on your representations and our review, we agree the release of some of the information at issue, which we have marked, 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. However, we find you have not demonstrated how any of the remaining information at issue would interfere with law enforcement or crime prevention. Accordingly, the sheriff's office may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no further exceptions to disclosure, 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,



Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/mo

Ref: ID# 767116

Enc. Submitted documents

c: Requestor  
(w/o enclosures)