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ATTORNEY GENERAL OF TEXAS

June 21, 2019

Ms. Sharbel Sfeir
Assistant General Counsel
Office of General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2019-17064

Dear Ms. Sfeir:

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# 771627 (OGC#PP0110).

The Texas Department of Criminal Justice (the "department") received a request for the current version of the department's Individualized Treatment Plan Procedure Manual. You claim the submitted information is excepted from disclosure under sections 552.108, 552.134, and 552.139 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

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.

Id. § 552.139(a). Section 2059.055 of the Government Code provides in pertinent 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[.]

Id. § 2059.055(b). Upon review, we find the information we marked relates to computer network security, and the design, operation, or defense of the department's computer network. Accordingly, the department must withhold the information we marked under section 552.139 of the Government Code.¹ However, we find you failed to demonstrate any of the remaining information relates to computer network security, to restricted information under 2059.055, or to the design, operation, or defense of a computer network as contemplated by section 552.139(a). Accordingly, the department may not withhold any of the remaining information under section 552.139(a) 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 (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 portions of the remaining information pertain to the movements and locations of department correctional officers and inmates. The department asserts release of this information could inherently interfere with law enforcement efforts and pose a security risk to offenders, department personnel, and the general public. Based on these representations and our review, we agree the release of the information we marked would interfere with law enforcement. Accordingly, the department may withhold the information

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

we marked under section 552.108(b)(1) of the Government Code.² However, we find the department failed to demonstrate the applicability of section 552.108(b)(1) to the remaining information at issue, and thus, the department may not withhold it on this basis.

Section 552.134 of the Government Code provides, in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). Upon review, we find the department has failed to demonstrate the information at issue pertains to an inmate for purposes of section 552.134. Accordingly, the department may not withhold any of the remaining information under section 552.134 of the Government Code.

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



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/gw

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

Ref: ID# 771627

Enc. Submitted documents

c: Requestor
(w/o enclosures)