



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2019

Mr. Albert DiMarco
Assistant General Counsel
Texas Department of Public Safety
Box 4087
Austin, Texas 78773-0001

OR2019-22644

Dear Mr. DiMarco:

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# 780701 (ORR# 19-2432).

The Texas Department of Public Safety (the "department") received a request for the investigation of the in-custody death of a named individual and associated video footage. The department states it will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2015-27249 (2015).¹ The department also states it is withholding information under section 552.1175 of the Government Code.² The department states it is releasing some of the requested information. Although the department takes no position as to whether the submitted information is excepted under the Act, the department states release of the submitted information may implicate the interests of the Anderson County Jail (the "county"). Accordingly, the

¹Open Records Letter No. 2015-27249 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

²Section 552.1175(f) of the Government Code authorizes a governmental body to redact under section 552.1175(b) the Government Code, without the necessity of requesting a decision from this office, the home addresses and telephone numbers, emergency contact information, date of birth, social security number, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure who properly elects to keep this information confidential. *See* Gov't Code § 552.1175(f).

department states, and provides documentation showing, it notified the county of the request for information and of the 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 comments stating why information should or should not be released). We have received comments from the county. We have reviewed the submitted arguments and the submitted information.

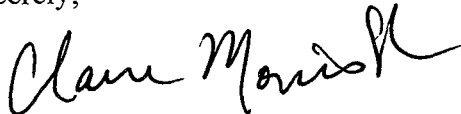
Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (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). Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

The county states the submitted information, if released, would interfere with law enforcement or prosecution of crime. The county argues release of the information at issue would reveal jail operations and the layout of the jail, which would create safety issues for jail staff and inmates. Based on these representations and our review, we agree the release of the information at issue would interfere with law enforcement. Accordingly, the department may withhold the submitted information under section 552.108(b)(1) of the Government Code on behalf of the county.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 780701

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)