



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 23, 2019

Mr. Nicholas Morrell  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2019-29892

Dear Mr. Morrell:

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# 792866 (Ref. No. PP0153).

The Texas Department of Criminal Justice (the "department") received a request for e-mails containing a specified phrase during a specified time period. Although the department takes no position as to the disclosure of the submitted information, you state that release of this information may implicate the interests of the Texas Department of Public Safety ("DPS").<sup>1</sup> Accordingly, you state you notified DPS of the request and of the opportunity to submit comments 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 DPS. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note DPS objects to disclosure of information the department has not submitted to this office for review. This ruling does not address information that was not submitted by the department and is limited to the information the department has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

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<sup>1</sup> Although the department raises sections 552.028 and 552.101 through 552.158 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claims that these exceptions apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

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 (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).

DPS states the submitted information, if released, would interfere with law enforcement or prosecution of crime. DPS states the release of the information at issue would provide “wrong-doers, terrorists, and other criminals with invaluable information concerning law enforcement procedures and intelligence of” a specified area. 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 DPS.<sup>2</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/be

Ref: ID# 792866

Enc. Submitted documents

c: Requestor  
(w/o enclosures)